

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HONORABLE LARRY ALAN BURNS, JUDGE PRESIDING

UNITED STATES OF AMERICA, )  
 )  
 PLAINTIFF, ) CASE NO. 10CR02217-LAB  
 )  
 VS. )  
 ) SAN DIEGO, CALIFORNIA  
 THANH VIET CAO, ) MAY 16, 2011  
 ) 9:30 A.M.  
 DEFENDANT. )  
 \_\_\_\_\_ )

REPORTER'S TRANSCRIPT

SENTENCE WITH PSR

APPEARANCES:

FOR THE GOVERNMENT:

LAURA E. DUFFY, U.S. ATTORNEY  
BY: JOSEPH ORABONA, ESQ.  
JOHN B. OWENS, ESQ.  
ASSISTANT U.S. ATTORNEYS  
880 FRONT STREET  
SAN DIEGO, CA 92101

FOR THE DEFENDANT:

FEDERAL DEFENDERS, INC.  
BY: TRENTON PACKER, ESQ.  
MICHELLE BETANCOURT, ESQ.  
220 BROADWAY, STE. 900  
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COURT REPORTER:

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SAN DIEGO, CALIFORNIA- MONDAY, MAY 16, 2011-9:30 A.M.

THE CLERK: CALLING NO. 2 ON THE CALENDAR, 10CR2217,  
UNITED STATES OF AMERICA VERSUS THANH VIET CAO, ON FOR  
SENTENCING.

COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE  
RECORD.

THE COURT: GOOD MORNING, MR. ORABONA.

MR. ORABONA: GOOD MORNING, YOUR HONOR.

JOSEPH ORABONA AND JOHN OWENS ON BEHALF OF THE  
UNITED STATES.

THE COURT: GOOD MORNING, MR. OWENS.

MS. BETANCOURT AND MR. PACKER, GOOD MORNING.

MR. PACKER: GOOD MORNING, YOUR HONOR.

MR. BETANCOURT: YOUR HONOR, IF I MAY HAND THE COURT  
THREE LETTERS THAT WE RECEIVED ON FRIDAY. I'VE ALREADY GIVEN  
COPIES TO THE GOVERNMENT.

(PAUSE IN PROCEEDINGS)

MS. BETANCOURT: MR. CAO IS PRESENT BEFORE THE  
COURT.

THE COURT: I'VE READ THE LETTERS FROM MR. CAO'S  
AUNTS, COUSINS, AND THIS FELLOW OBLAMAN (PHONETIC)?

MS. BETANCOURT: YES, SIR.

THE COURT: THIS IS ON FOR SENTENCING THIS MORNING.  
MR. CAO WAS CONVICTED BY A JURY IN FEBRUARY. THE COURT HAS  
READ, AMONG OTHER THINGS THE PRESENTENCE REPORT.

1                   YOU'VE HAD A CHANCE TO GO OVER THAT WITH MR. CAO?

2                   MS. BETANCOURT: YES, YOUR HONOR.

3                   THE COURT: THE GOVERNMENT HAS FILED A SENTENCING  
4 SUMMARY CHART. THEY'VE ALSO FILED A SENTENCING MEMORANDUM.  
5 I'VE LOOKED VERY CAREFULLY AT THAT. THERE'S A RESTITUTION  
6 JUDGMENT THAT'S BEEN HANDED TO THE COURT AS WELL, BUT IT  
7 PURPORTS TO ASSIGN THE AMOUNT OF RESTITUTION TO THE VARIOUS  
8 VICTIMS IN THIS CASE.

9                   THERE IS A DEFENSE SENTENCING MEMORANDUM. I'VE  
10 LOOKED AT THAT VERY EXTENSIVELY.

11                  I'VE LOOKED AT ALL OF THE PAPERS AT LEAST TWICE,  
12 SOME OF THEM I THINK MORE THAN TWICE, MOST RECENTLY LAST  
13 NIGHT. I'VE TRIED TO GO THROUGH AND DO VERY CLOSE SCRUTINY OF  
14 WHAT THE PARTIES CONTEND ARE COMPARABLE CASES TO SENTENCES  
15 IMPOSED IN THOSE CASES. THAT'S OBVIOUSLY ONE OF THE FACTORS.

16                  BUT I WANT YOU TO KNOW THAT I HAVE LOOKED AT THAT.  
17 I THINK IT'S VERY DIFFICULT TO MAKE JUDGMENTS OTHER THAN THIS  
18 IS IN THE RANGE OF MONEY LOST BECAUSE I KNOW LITTLE ABOUT  
19 THOSE CASES OTHER THAN THE NOTORIOUS ONES, SKILLING AND  
20 EBBERS, AND MADOFF, OF COURSE. THE OTHER CASES, IT'S VERY  
21 HARD TO KNOW WHAT THE CIRCUMSTANCES ARE.

22                  I THINK THIS CASE IS COMPLICATED BY SOME AGGRAVATING  
23 CIRCUMSTANCES, MS. BETANCOURT, AND I WANT YOU TO SPEAK TO  
24 THIS. IT'S NOT JUST THE AMOUNT OF MONEY THAT WAS STOLEN BY  
25 MR. CAO IN THIS CASE, BUT IT'S KIND OF A PATTERN OF

1 BELLIGERENCE AND OBSTRUCTION.

2 AND INSTEAD OF BACKING DOWN, IT'S LIKE EVERY TIME HE  
3 WAS CONFRONTED, HE REDOUBLED WHAT HE WAS DOING. HE'S FILING  
4 THESE LIENS AGAINST THE JUDGES, ACTING IN CONTRAVENTION OF  
5 JUDGE CARNEY'S ORDER NOT TO MOVE MONEY, THREATENING PEOPLE,  
6 SENDING OUT THESE THREATENING E-MAILS AND TAUNTING E-MAILS,  
7 THAT TYPE OF THING.

8 I JUST HAVEN'T SEEN ANY BACKING DOWN ON HIS PART. I  
9 WOULD HAVE THOUGHT AT SOME POINT WHEN THE SEC WAS CHASING HIM  
10 AND HE WAS AWARE OF THAT, THAT HE WOULD HAVE STOOD DOWN.  
11 INSTEAD, IT SEEMS LIKE HE ESCALATED THINGS.

12 SO I'M TROUBLED BY THAT. THAT'S AN AGGRAVATING  
13 CIRCUMSTANCE IN THIS CASE. AND IT HAPPENED OVER A LONG PERIOD  
14 OF TIME. IT WASN'T LIKE JUST A LAPSE IN JUDGMENT, A REACTION.  
15 IT WAS LIKE A PATTERN OF CONDUCT ON HIS PART; TRYING TO  
16 COUNTER MOVES BY AUTHORITIES, RESISTANCE TO COURT ORDERS. I  
17 THINK THAT'S VERY AGGRAVATING HERE.

18 THE OTHER THING I WANT YOU TO SPEAK TO -- AND AS FAR  
19 AS I'M CONCERNED, THIS IS THE ELEPHANT IN THE ROOM --  
20 SOMEWHERE BETWEEN \$10 AND \$12 MILLION WAS STOLEN. THE  
21 EXPENSES THAT I'M AWARE OF -- AND I'VE SCRUTINIZED MY NOTES  
22 FROM THE TRIAL IN THIS CASE, I'VE LOOKED AT THE PRESENTENCE  
23 REPORT, THE PARTIES' SUBMISSIONS VERY CAREFULLY -- ACCOUNTS  
24 FOR MAYBE HUNDREDS OF THOUSANDS OF THAT AMOUNT; THE BENTLEY,  
25 OF COURSE, THE LAVISH LIVING, THE WATCHES. BUT THAT'S A DROP

1 IN THE BUCKET TO \$10 OR \$12 MILLION.

2 I DO KNOW THAT A MILLION SEVEN WENT OFFSHORE. I  
3 CAN'T FIGURE OUT WHAT HAPPENED TO THE REST OF THE MONEY. I  
4 HAVE THIS FEAR, MS. BETANCOURT, THAT MR. CAO HAS GOT MONEY  
5 SQUIRRELED AWAY SOMEWHERE OFFSHORE. OF COURSE, THERE'S NO  
6 EVIDENCE OF THAT. THE GOVERNMENT WOULD HAVE GRABBED IT, I  
7 SUPPOSE, OR MADE SOME ATTEMPT TO.

8 BUT AT THE SAME TIME, HE DIDN'T SPEND IT, AND IT'S  
9 GONE. AND I DON'T KNOW WHERE THE MONEY IS. AND THAT, I HAVE  
10 TO TELL YOU, IS GOING TO AFFECT MY SENTENCING DISCRETION. THE  
11 RANGE HERE IS A VERY BIG RANGE. IF I CREDIT THE COMPARATIVE  
12 ANALYSIS THAT MR. PACKER DID IN THE SENTENCING MEMO, I LOOK AT  
13 SOME OF THOSE CASES, AND THE RANGE COULD BE ANYWHERE FROM  
14 10 YEARS UP TO, WHAT, 40 YEARS? THE GOVERNMENT WANTS 40 YEARS  
15 IN THIS CASE. SO THERE'S A HUGE RANGE.

16 I'LL TELL YOU WHAT I DON'T WANT TO DO. I DON'T WANT  
17 TO GO EASY ON MR. CAO IF THERE'S MONEY WAITING FOR HIM OUT  
18 THERE AND IT'S THIS STOLEN MONEY THAT BELONGS TO ALL THESE  
19 PEOPLE WHO'VE BEEN SO DEEPLY AFFECTED BY THIS.

20 AND I WANT TO HEAR ABOUT THAT. I WANT TO HEAR WHAT  
21 HAPPENED TO THAT MONEY, WHERE IT IS, WHAT THE PROSPECT IS THAT  
22 THAT MONEY CAN BE BROUGHT BACK AND GIVEN BACK TO SOME OF THESE  
23 PEOPLE IN AN ATTEMPT TO MAKE THEM PARTIALLY WHOLE. I DON'T  
24 HAVE ANY ILLUSIONS. EVERYBODY'S NOT GOING TO GET THEIR MONEY  
25 BACK. I JUST CAN'T FATHOM WHAT HAPPENED TO THE OTHER \$10

1 MILLION, \$11 MILLION.

2 SO THOSE ARE THE THINGS THAT ARE ON MY MIND. I'M  
3 HAPPY TO HEAR FROM YOU GENERALLY ON BEHALF OF MR. CAO.

4 MS. BETANCOURT: THANK YOU, YOUR HONOR.

5 YOUR HONOR, AS THE COURT NOTES FROM OUR SENTENCING  
6 MEMORANDUM, WE ARE REQUESTING A SENTENCE OF TEN YEARS. IT'S  
7 NOT A LIGHT SENTENCE THAT WE'RE REQUESTING. AS THE COURT  
8 KNOWS, THE GUIDELINES ARE MERELY ADVISORY, AND THE COURT  
9 SHOULD CONSIDER ALL THE MITIGATING FACTORS.

10 HERE WE'RE ASKING THE COURT TO REJECT THE GUIDELINES  
11 BECAUSE THEY DO LACK AN EMPIRICAL BASIS. I THINK OUR  
12 MEMORANDUM TRIED TO GO THROUGH AND BREAK IT DOWN FOR YOU.  
13 CERTAINLY, THEY RECOMMEND, IN OUR VIEW, A PUNISHMENT THAT'S  
14 GREATER THAN NECESSARY IN THIS CASE.

15 THE GUIDELINES ARE CERTAINLY JUST ONE-DIMENSIONAL.  
16 EVEN IF MR. CAO HAD PLED, THE ONLY THING REALLY AVAILABLE TO  
17 HIM OTHER THAN DEPARTURES WOULD HAVE BEEN A MINUS THREE FOR  
18 ACCEPTANCE OF RESPONSIBILITY. THE ONLY THING THAT THE  
19 GUIDELINES DO IS GO UP.

20 AND JUST IN ASKING, IS A BASE OFFENSE LEVEL OF 41  
21 REALLY REFLECTIVE OF A TRUE HARM HERE? I RECOGNIZE THAT THERE  
22 WAS A LOT OF LOSS AND THAT THE INVESTORS LOST MONEY IN THIS  
23 CASE, BUT WE ALSO NEED TO LOOK AT THE MOTIVE.

24 AND THERE'S NO DISPUTING THAT A BENTLEY WAS BOUGHT  
25 AND THAT THE WATCH WAS BOUGHT AND SOME LUGGAGE WAS BOUGHT, BUT

1 I THINK THE COURT IS RIGHT. THIS IS NOT AN INDIVIDUAL WHO WAS  
2 LIVING A LAVISH LIFESTYLE BUYING YACHTS OR LIVING IN A  
3 MULTI-MILLION DOLLAR MANSION. HE WAS LIVING AT HIS PARENTS'  
4 HOME WITH HIS GIRLFRIEND.

5 THE COURT: WHAT HAPPENED TO THE REST OF THE MONEY?

6 MS. BETANCOURT: WE HAVE TRIED -- I SAT DOWN WITH  
7 MR. CAO. IF THE COURT RECALLS -- WELL, I DON'T KNOW IF THE  
8 COURT WOULD KNOW THIS, BUT THERE WERE INVESTMENTS THAT  
9 PREDATED THIS AND ACTUALLY GO TO THE STATE COURT CONVICTION.

10 THERE IS SOME MONIES THAT WERE LOST THERE, PART OF  
11 THE REASON MR. CAO HAD ISSUES WITH THOSE INDIVIDUALS. I DON'T  
12 KNOW -- HE DOESN'T KNOW EXACTLY HOW MUCH MONEY, BUT THAT COULD  
13 BE BETWEEN \$2 OR \$3 MILLION.

14 THE COURT: I GOT THE IMPRESSION THAT THAT WAS A  
15 DIFFERENT POOL OF INVESTORS ON THOSE LOSSES.

16 MS. BETANCOURT: THAT WAS WHERE IT ALL WAS STARTING.  
17 THAT WAS VEST AMERICA. THAT WAS -- A LOT OF THOSE INVESTMENTS  
18 IS WHERE IT ALL WAS STARTING. THAT WAS NOT A SEPARATE POOL.  
19 THAT WAS ALL -- IN MR. CAO'S MIND, IT'S ALL THE SAME.

20 THE COURT: THOSE EVENTS GO BACK TO 2006; RIGHT?

21 MS. BETANCOURT: CORRECT.

22 THE COURT: AND THE TESTIMONY WE HEARD AT TRIAL  
23 POSTDATED THAT?

24 MS. BETANCOURT: 2005 IS WHEN PEOPLE FIRST STARTED  
25 INVESTING.

1 THE COURT: RIGHT, BUT I HEARD FROM VICTIMS HERE WHO  
2 INVESTED LONG AFTER 2006. HE WAS MAKING PRESENTATIONS DOWN AT  
3 THE --

4 MS. BETANCOURT: YOUR HONOR, I THINK IT'S IMPORTANT  
5 TO NOTE THAT YOU DID HEAR FROM THE INVESTORS THAT INVESTED  
6 UNFORTUNATELY LATE IN THIS SCHEME. AND THE PEOPLE THAT  
7 INVESTED LATE IN THE SCHEME ARE THE ONES THAT END UP LOSING  
8 THE MOST BECAUSE THE SCHEME FALLS APART. THE PEOPLE EARLY ON  
9 GET RETURNS, ARE RECEIVING MONEY BECAUSE OF THE PEOPLE THAT  
10 ARE COMING IN AFTER THE FACT.

11 THE COURT: I GET THAT, BUT THAT'S ACCOUNTED FOR IN  
12 THE FIGURE THAT I HAVE. WHEN I SAY 10 TO 12 MILLION, I THINK  
13 THAT'S A RELIABLE FIGURE OF THE ACTUAL LOSS. IT'S CLEAR TO ME  
14 THAT HE TOOK IN ABOUT \$18 MILLION AND THAT HE PAID OUT, AS  
15 PART OF THE PONZI SCHEME, ABOUT \$6 MILLION.

16 WE STILL HAVE A BIG, GREAT DIVIDE, MS. BETANCOURT,  
17 BETWEEN THINGS THAT HE BOUGHT, THINGS THAT I CAN SAY "OKAY.  
18 SOME MONEY WENT FOR THIS," AND THEN THIS MISSING \$10 MILLION.  
19 THAT'S WHY I CHARACTERIZED IT AS THE ELEPHANT IN THE ROOM.  
20 GIVEN THAT THERE WERE OVERSEAS TRANSFERS --

21 MS. BETANCOURT: THERE WAS ONE OVERSEAS TRANSFER.

22 THE COURT: I KNOW, THAT THE GOVERNMENT KNEW ABOUT.  
23 AND ALL OF THESE ACCOUNTS, 60 DIFFERENT ACCOUNTS AND THINGS  
24 MOVING BACK AND FORTH, I'M SUSPICIOUS, AS I SAID, THAT THERE  
25 MAY BE MONEY OUT THERE THAT HE KNOWS WHERE IT IS BUT THAT I



1 CERTAINLY DON'T. I DON'T THINK THE GOVERNMENT DOES.

2 MS. BETANCOURT: BUT THAT'S NOT -- THE GOVERNMENT  
3 DID A VERY EXTENSIVE ANALYSIS OF THIS CASE; THE FORENSIC  
4 ACCOUNTANT, EVERYONE TRYING TO LOCATE THE MONEY. AND THERE  
5 WAS NO EVIDENCE WHATSOEVER THAT MONEY WAS SHIPPED OVERSEAS.

6 THE COURT: WHAT HAPPENED TO IT, THEN?

7 MS. BETANCOURT: YOUR HONOR, WE WISH WE KNEW. I  
8 DON'T THINK THAT MR. CAO WAS BEING -- KEEPING THE BEST  
9 ACCOUNTING RECORDS BEING THAT THERE WERE SO MANY DIFFERENT  
10 ACCOUNTS.

11 THERE WAS ALSO, AS THE GOVERNMENT ALLUDES IN THEIR  
12 MEMORANDUM, A NUMBER OF HANDS IN THE POT. THEY DIDN'T CHARGE  
13 THOSE INDIVIDUALS AS CO-DEFENDANTS IN THIS CASE, BUT MS. LUDY  
14 GROSNICKLE WAS ONE OF THE MAIN PEOPLE THAT BROUGHT IN  
15 INDIVIDUALS. THE INDIVIDUAL IN NORTHERN CALIFORNIA. THERE  
16 WAS OTHER PEOPLE GIVING PRESENTATIONS, AND THOSE PEOPLE HAD  
17 HANDS IN THE POT.

18 NOW, THEY WEREN'T CHARGED. THEY WERE CHARGED  
19 CIVILLY. MS. GROSNICKLE IS ON THE HOOK FOR A CERTAIN AMOUNT  
20 OF MONEY, BUT I DON'T KNOW IF THOSE INDIVIDUALS ARE ONES TO BE  
21 HELD RESPONSIBLE FOR THE MISSING MONEY.

22 MR. CAO, I THINK THE EVIDENCE SHOWED THAT HE WAS ONE  
23 OF THE MAIN PEOPLE IN THIS SCHEME, BUT THERE WERE OTHER  
24 INDIVIDUALS WHO WERE VERY MUCH INVOLVED.

25 IN FACT, SOME OF THE INVESTORS THAT WE SPOKE TO

1 DIDN'T MEET MR. CAO UNTIL WELL INTO THEIR INVESTMENT, WERE  
2 DEALING MOSTLY WITH MS. LUDY GROSNICKLE, WERE DEALING WITH  
3 OTHER INDIVIDUALS THAT WERE HOLDING THE SEMINARS UNTIL MR. CAO  
4 WOULD COME TO THE BIG HYATT MEETINGS. SO THERE WERE OTHER  
5 PEOPLE THAT WERE INVOLVED IN IT.

6 WE DON'T KNOW -- MR. CAO, THE ONE THING I THINK HE  
7 WANTED TO DO WHEN THIS STARTED -- AND MAYBE THERE WAS A NUMBER  
8 OF MOTIVES, BUT HE DID WANT TO GET PEOPLE'S MONEY BACK. WHEN  
9 HE MOVED THAT MONEY IN CONTRAVENTION TO THE COURT ORDER, IT  
10 WAS TO PAY PEOPLE BACK. AND PEOPLE WERE GETTING RETURNS  
11 DURING THAT PERIOD, IF MY RECOLLECTION IS CORRECT. IT'S NOT  
12 THAT HE TOOK THAT MONEY AND USED IT FOR HIMSELF. HE WANTED TO  
13 GIVE SOME OF THOSE PEOPLE THEIR MONEY BACK.

14 BUT THEN IT WAS -- BECAUSE THEY HADN'T SEIZED THAT  
15 ACCOUNT YET, AND SO PAYMENTS WERE STILL MADE OUT TO  
16 INDIVIDUALS. SO THAT MONEY, WHEN HE WENT AGAINST THE COURT  
17 ORDER, WAS TO STILL MAKE PAYMENTS TOWARD THAT.

18 I THINK THE GOVERNMENT WOULD HAVE FOUND SOME  
19 TRANSACTIONS OF MONEY GOING OVERSEAS FROM ONE ACCOUNT OR  
20 ANOTHER. THERE WERE A NUMBER OF ACCOUNTS, BUT THERE IS NO  
21 EVIDENCE THAT ANY MONEY OTHER THAN THAT WIRE TRANSFER WENT  
22 OVERSEAS.

23 THE COURT: LET'S ASSUME IT DIDN'T GO OVERSEAS.  
24 IT'S JUST AN INCREDIBLY LARGE AMOUNT OF MONEY TO HAVE NO  
25 ACCOUNTING FOR IT. YOU CAN'T POINT TO ANYBODY THAT HAS IT.

1 THERE'S NO ASSETS THAT ARE REPRESENTED BY IT. I'M WONDERING  
2 WHAT HAPPENED TO IT. IT DIDN'T VAPORIZE. THAT'S WHAT MAKES  
3 ME SUSPICIOUS.

4 MAYBE THE SUSPICION RAN RAMPANT WHEN I SAID IT WAS  
5 OVERSEAS. THERE'S SOME BASIS FOR INFORMED SPECULATION BECAUSE  
6 HE'S SENDING MONEY TO HONG KONG. HE IS. YOU'RE RIGHT THAT IF  
7 THE GOVERNMENT LOOKED AT THIS VERY CAREFULLY, THEY PROBABLY  
8 WOULD HAVE FOUND OTHER WIRE TRANSFERS, BUT MAYBE NOT. MAYBE  
9 HE WAS DOING IT IN SOME CONVOLUTED WAY THAT THEY COULDN'T  
10 DETECT.

11 THE POINT IS I DON'T KNOW WHAT'S HAPPENED TO THE  
12 MONEY. I THINK MR. CAO KNOWS. HE'S IN THE BEST POSITION TO  
13 KNOW. AND I WOULD HAVE HOPED THAT, YOU KNOW, WE WOULD HAVE  
14 HAD AN EXPLANATION FOR THAT.

15 IF THERE'S MONIES SQUIRRELED AWAY SOMEWHERE, A  
16 PROMISE TO COME FORWARD WITH THAT MONEY AND PAY THESE  
17 INVESTORS BACK SOME PENNIES ON THEIR DOLLARS THAT THEY LOST,  
18 THEN IT WOULD BE A DIFFERENT CASE IN MY JUDGMENT,  
19 MS. BETANCOURT. THEN I WOULD SAY, "OKAY. THIS RECOMMENDATION  
20 THE UNITED STATES MADE IS VERY, VERY HARSH."

21 IT IS HARSH. IT'S A LONG TIME. I CAN'T EVEN  
22 CONCEIVE OF MR. CAO AT 30 YEARS OLD SPENDING 40 YEARS IN  
23 CUSTODY. BUT I'M ALSO BUFFETED, I HAVE TO TELL YOU, BY THE  
24 FEAR THAT HE'S GOT MONEY SQUIRRELED AWAY SOMEWHERE, THAT I  
25 IMPOSE SOME SENTENCE AND HE DOES THAT TIME AND THEN HE GETS

1 OUT AND HE'S GOT MILLIONS OF DOLLARS THAT HE STOLE FROM  
2 PEOPLE.

3 MS. BETANCOURT: I DON'T THINK THAT THAT'S GOING TO  
4 BE POSSIBLE FOR HIM TO AVOID DETECTION IF THAT IS THE CASE.  
5 ONE, BECAUSE HE'LL BE ON SUPERVISED RELEASE FOR AT LEAST  
6 THREE YEARS FOLLOWING ANY SENTENCE THAT THIS COURT IMPOSES.  
7 HE'LL THEN BE ON THE HOOK FOR RESTITUTION, AND I CAN'T IMAGINE  
8 THAT THE GOVERNMENT WOULD NOT HAVE A CLOSE EYE ON ANY  
9 FINANCIAL TRANSACTIONS MADE BY MR. CAO OR MONEY THAT HE'S ABLE  
10 TO GET TO TO LIVE A LAVISH LIFESTYLE.

11 THE COURT: IS HE PREPARED TODAY TO SPEAK TO THIS  
12 QUESTION?

13 MS. BETANCOURT: I DON'T KNOW THAT THERE'S AN ANSWER  
14 THAT HE CAN GIVE, YOUR HONOR.

15 THE COURT: HE'S IN THE BEST POSITION,  
16 MS. BETANCOURT. YOU AND I CAME ON TO THIS LONG AFTER THESE  
17 EVENTS OCCURRED. WE'VE HAD TO RECONSTRUCT WHAT HAPPENED. BUT  
18 HE KNEW. HE WAS THERE. HE'S GOT A HISTORICAL CONNECTION TO  
19 ALL THESE EVENTS. IF ANYONE CAN TELL ME WHAT HAPPENED TO THE  
20 MONEY, MR. CAO CAN, I WOULD THINK.

21 NOW, I UNDERSTAND HE WENT TO A JURY TRIAL. HE  
22 RETAINS SOME 5TH AMENDMENT PROTECTION HERE. BUT I'M TELLING  
23 YOU THAT SOME ACCOUNTING FOR THAT, SOME CREDIBLE EXPLANATION,  
24 IF IT'S OUT THERE, A WILLINGNESS TO PAY IT BACK AFFECTS MY  
25 SENTENCING JUDGMENT ON THIS CASE. I JUST -- I'M NOT INCLINED

1 TO SHOW A LOT OF LENIENCY IF THERE'S A BIG AMOUNT OF MONEY OUT  
2 THERE THAT, AS I SAID, HE'S SQUIRRELING AWAY WHILE PEOPLE ARE  
3 SUFFERING.

4 YOU READ THE PRESENTENCE REPORT, I'M SURE. AND  
5 MR. CAO READ IT. THERE'S REAL LIFE DAMAGE THAT WAS DONE TO A  
6 LOT OF PEOPLE. PEOPLE CAN'T SEND KIDS TO COLLEGE NOT BECAUSE  
7 OF THIS. PEOPLE LOST THEIR HOMES. PEOPLE WHOSE 401K WENT  
8 POOF AND THEY'RE GOING TO HAVE TO WORK INDEFINITELY.

9 MS. BETANCOURT: I UNDERSTAND THAT THERE ARE  
10 INVESTORS HERE THAT -- SOME OF THEM TURNED OUT TO BE VICTIMS.  
11 THERE'S ALSO PEOPLE WHO WERE ABLE TO REMODEL THEIR KITCHENS,  
12 WHO WERE ABLE TO GO ON VACATIONS. THERE ARE ALSO INDIVIDUALS  
13 WHO PROFITED FROM THIS.

14 I'M NOT SAYING THAT I DON'T FEEL FOR THE INVESTORS  
15 THAT LOST MONEY, BUT THE INVESTORS HERE, I BRING THIS BACK TO  
16 THEY WEREN'T A TARGETED GROUP NECESSARILY COMPARED TO MANY OF  
17 THE OTHER CASES WHERE SIGNIFICANT SENTENCES HAVE BEEN HANDED  
18 OUT OR EVEN LESSER SENTENCES THAN TEN YEARS HAVE BEEN HANDED  
19 OUT.

20 THERE WERE INDIVIDUALS THAT CAME THROUGH WORD OF  
21 MOUTH THROUGH HEARING THAT THEY COULD MAKE MONEY AND ALWAYS  
22 SIGNING THESE DOCUMENTS KNOWING. WE HAD COLLEGE-EDUCATED  
23 INDIVIDUALS LIKE MS. KIMBERLY SUMMITT, WHO WAS A  
24 PHARMACEUTICAL REP WHO KNEW -- A VERY SMART INDIVIDUAL.

25 THEY ALL KNEW WHAT THEY COULD DO. THEY KNEW THAT

1       THEY COULD GO SPEAK TO INDIVIDUALS ABOUT THESE INVESTMENTS,  
2       BUT CHOSE TO GO IN WITH EYES WIDE OPEN I THINK.   SOME OF THEM  
3       DID LOSE, BUT A LOT OF THEM DID GAIN.

4               THE COURT:   HE'S GOT FORGED DOCUMENTS WITH THE WELLS  
5       FARGO LOGO THAT HE ADMITS THAT HE FORGED.   AND HE'S SHOWING  
6       THEM TO PEOPLE AND PEOPLE LOOK AT THIS AND SAY, "YES, THIS  
7       LOOKS LEGIT TO ME.   THIS INVESTMENT'S BACKED BY GOLD, AND IT'S  
8       BACKED BY WELLS FARGO."   EVEN PEOPLE WHO ARE MAYBE MORE  
9       SOPHISTICATED ARE LURED IN, AND THAT'S WHAT HAPPENED HERE.

10              I PUT NO BLAME ON THESE PEOPLE.   I DON'T THINK THAT  
11       THE PEOPLE THAT INVESTED WERE GREEDY NECESSARILY OR BEING  
12       IRRESPONSIBLE ABOUT THIS.   THEY GOT LULLED IN.   AND IF THERE  
13       WAS RESISTANCE, HE OVERCAME THAT WITH MORE FALSE PROMISES AND  
14       THEN PHONYING UP THESE DOCUMENTS THAT LOOKED VERY LEGITIMATE.  
15       THIS IS ON HIM, MS. BETANCOURT.   IT REALLY IS.

16              MS. BETANCOURT:   YOUR HONOR, AT THIS POINT IT IS.  
17       THE JURY HAS CONVICTED HIM, AND WE'RE AT THE SENTENCING POINT  
18       NOW.

19              BUT I WANT TO NOW REFER THE COURT TO THE LETTER --  
20       THE THIRD LETTER I GAVE THE COURT TO READ.   THIS IS FROM  
21       MS. PABALAN, WHO IS ATTENDING MEETINGS WITH MR. RON MACUTAY.

22              NOW, I POINT THIS OUT BECAUSE THIS IS AN INDIVIDUAL  
23       WHO SUPPOSEDLY WAS RECEIVING THE MONEY OFFSHORE.   AND THERE  
24       WAS A WHOLE DISCUSSION ABOUT THAT BANK GUARANTY, IF THE COURT  
25       RECALLS, THAT THE GOVERNMENT PROVED OR SHOWED TO THE JURY THAT

1 IT WAS A FALSE GUARANTY.

2 BUT THIS IS THE INDIVIDUAL THAT WAS SELLING THAT TO  
3 MR. CAO. I JUST -- MR. MACUTAY CONTINUES TO GO OUT AND IS  
4 SELLING INVESTMENTS TO INDIVIDUALS, AND PEOPLE STILL CONTINUE  
5 TO GO.

6 THE COURT: MAYBE HE'S THE NEXT TARGET OF A  
7 GOVERNMENT INVESTIGATION.

8 I DON'T PUT MUCH STOCK IN THIS. THIS GUY'S TELLING  
9 ME ABOUT REPRESENTATIONS THAT ARE MADE AFTER MR. CAO HAS BEEN  
10 CONVICTED BY A JURY AND THIS WHOLE THING'S BEEN AIRED. AS FAR  
11 AS I KNOW, THIS FELLOW WAS NEVER IN THE GALLERY WHEN THE CASE  
12 WAS BEING TRIED TO KNOW WHAT THE EVIDENCE WAS.

13 MS. BETANCOURT: I'M NOT POINTING IT OUT TO SAY THAT  
14 HE'S SAYING THAT MR. CAO HAD NOTHING TO DO WITH IT. WHAT I'M  
15 SAYING IS I MOST LIKELY THINK HE'S SAYING THAT SO HIS NAME  
16 DOESN'T GET CONNECTED TO MR. CAO.

17 THE COURT: PROBABLY.

18 MS. BETANCOURT: WHAT I POINTED OUT IS THAT THIS  
19 INDIVIDUAL IS THE ONE THAT WAS TRYING TO GET MR. CAO TO INVEST  
20 HIS INVESTORS' MONEY IN THIS BANK GUARANTY.

21 SO THERE WERE A LOT PEOPLE WHO WERE WANTING INVESTOR  
22 MONEY IN THIS CASE. MR. CAO DEALT WITH A NUMBER OF  
23 INDIVIDUALS. SOME OF THEM, LIKE MR. MACUTAY, CONTINUE TO TRY  
24 TO SEEK OUT INVESTMENTS. I'M NOT SAYING THAT MR. CAO  
25 NECESSARILY WAS AN INNOCENT VICTIM HIMSELF IN THIS CASE, BUT

1        THAT THERE WERE OTHER INDIVIDUALS WHO WERE JUST AS GREEDY AND  
2        WERE TRYING TO TAKE HIM BECAUSE THEY KNEW THAT THERE WAS A  
3        BASE THERE. THAT'S WHY I BRING THIS LETTER TO THE COURT'S  
4        ATTENTION.

5                MR. CAO IS 30 YEARS OLD. HE'S NOT GOING TO -- EVEN  
6        WITH A TEN-YEAR SENTENCE, HE WON'T REALLY BE ABLE TO ENJOY HIS  
7        DAUGHTER DURING HER EARLY YEARS AND I THINK VERY FORMATIVE  
8        YEARS. HE'S NOT AN INDIVIDUAL WHO WAS LIVING A LAVISH  
9        LIFESTYLE.

10               AS THE COURT CAN SEE FROM THE LETTERS FROM HIS AUNTS  
11        AND HIS COUSINS, HE'S A VERY WELL-LOVED INDIVIDUAL. HE'S A  
12        QUIET PERSON. HE WAS INCREDIBLY QUIET DURING THE TRIAL. HE  
13        NEVER ONCE TRIED TO DELAY THIS MATTER. I THINK THAT THAT'S  
14        SOMETHING THAT THE COURT SHOULD CONSIDER.

15               IF MR. -- I KNOW THAT THERE ARE SOME ACTIONS THAT  
16        MR. CAO TOOK PRIOR TO THIS INDICTMENT BEING BROUGHT AND HIM  
17        BEING BROUGHT INTO CUSTODY FOR THIS CASE AND THIS CASE  
18        PROCEEDING TO TRIAL, BUT HE NEVER ONCE TRIED TO DELAY THIS  
19        MATTER. I KNOW THAT HE WOULDN'T HAVE BEEN ABLE TO IN THIS  
20        COURTROOM.

21               BUT THERE WAS NEVER ANY PRETENSE BY HIM ABOUT  
22        WANTING TO DELAY THIS OR WANTING TO CONTINUE THE SENTENCING.  
23        THE REQUEST MADE TO CONTINUE THIS TWO WEEKS WAS ON MY  
24        BEHALF -- OR WAS MADE BY ME AND NOT MR. CAO BECAUSE WE WANTED  
25        TO INVESTIGATE SOMETHING.



1 I THINK THE THINGS THAT WERE DONE WITH THE LIENS,  
2 THE THINGS THAT WERE GOING ON WITH THE THREATS, I THINK THAT  
3 WAS BECAUSE THINGS WERE STARTING TO COME TO A HEAD AND FALL  
4 APART. WHAT HE WANTED MOST WAS TO NOT LOSE THE INVESTORS'  
5 MONEY.

6 SOME OF IT HAD ALREADY BEEN LOST AT THAT POINT  
7 THROUGH VEST AMERICA AND THOSE INVESTMENTS, AND HE KNEW THAT  
8 HE -- HE WAS TRYING TO SAVE IT, AT LEAST THAT'S MY READING OF  
9 WHAT WAS GOING ON.

10 I CAN SPEAK TO MR. CAO FOR A MINUTE IF THE COURT  
11 WOULD ALLOW ME THOSE MINUTES.

12 THE COURT: I WOULD, YES. I WANT TO -- I'M REALLY  
13 INTERESTED IN WHAT HE HAS TO SAY ABOUT THE 10 TO 11.5 MILLION  
14 THAT'S UNACCOUNTED FOR.

15 MS. BETANCOURT: MAY I ASK THE MARSHAL TO STEP BACK  
16 THREE STEPS SO I CAN SPEAK TO HIM?

17 THE COURT: YES.

18 (DISCUSSION BETWEEN DEFENDANT AND COUNSEL)

19 MS. BETANCOURT: YOUR HONOR, MR. CAO IS WILLING TO  
20 SPEAK TO THE COURT. HOWEVER, HE WOULD ASK THAT IT WOULD BE  
21 OUTSIDE THE PRESENCE OF THE GALLERY. THE GOVERNMENT CAN  
22 REMAIN, BUT IF WE COULD HAVE JUST THE COURT'S STAFF AND THE  
23 GOVERNMENT.

24 THE COURT: CAN'T DO THAT.

25 MR. CAO, I CAN'T DO THAT. THIS IS A PUBLIC

1 COURTROOM. THIS IS A PUBLIC PROCEEDING. THERE'S GREAT  
2 INTEREST IN THIS.

3 NOW, IF YOU WANT TO SCALE BACK WHAT YOU HAVE TO SAY,  
4 THAT'S FINE. I'M VERY INTERESTED IN HEARING FROM YOU ON THAT.  
5 AND AS YOU'VE HEARD ME SAY SEVERAL TIMES NOW, THAT AFFECTS MY  
6 SENTENCING JUDGMENT. IF YOU WANT TO SPEAK TO IT, YOU CAN.  
7 YOU DON'T HAVE TO. YOU HAVE A 5TH AMENDMENT PROTECTION THAT  
8 CONTINUES ON HERE. I ANTICIPATE THAT THERE WILL PROBABLY BE  
9 AN APPEAL FILED, AND THINGS THAT YOU SAY HERE CONCEIVABLY IF  
10 THERE'S A NEW TRIAL OR SOMETHING COULD BE USED AGAINST YOU.

11 NOW, HAVING SAID THAT, I THINK YOU GOT A FAIR TRIAL  
12 HERE. IT WAS A MIXED VERDICT. AND YOUR LAWYERS PERFORMED  
13 VERY, VERY WELL. AND SO I DON'T KNOW ON WHAT BASIS YOU'D  
14 APPEAL. BUT I HAVE TO TELL YOU THAT THINGS YOU SAY  
15 CONCEIVABLY COULD BE USED AGAINST YOU.

16 I WANT TO TELL YOU THAT THEY COULD ALSO BE USED IN  
17 YOUR FAVOR, TOO. IF YOU IDENTIFY WHERE THE MONEY IS AND SOME  
18 MONEY COMES BACK IN, THAT'S GOING TO AFFECT THE SENTENCE THAT  
19 I IMPOSE IN THIS CASE.

20 AS I'VE SAID TO YOU, I JUST DON'T UNDERSTAND WHAT'S  
21 HAPPENED TO THIS GREAT BULK OF MONEY. IF THAT MONEY WERE TO  
22 WASH BACK IN, I'D SEE THIS CASE DIFFERENTLY THAN I DO NOW,  
23 WHICH IS AT THIS POINT A TOTAL LOSS. SO IT'S UP TO YOU. IF  
24 YOU WANT TO SPEAK TO THOSE THINGS --

25 THE DEFENDANT: DO YOU WANT ME TO SPEAK RIGHT NOW?

1 THE COURT: DO YOU WANT TO MOVE BEHIND THE LECTERN?

2 THE DEFENDANT: WELL, I JUST WANT TO REITERATE YOUR  
3 QUESTION MAINLY WAS I THINK WHAT THE RECEIVER MAY HAVE  
4 TESTIFIED TO WAS THERE WAS IN BETWEEN \$10 TO \$12 MILLION THAT  
5 WAS MISSING AFTER ALL THE ACCOUNTING WAS DONE.

6 THE COURT: RIGHT, AND THEN LOST.

7 THE DEFENDANT: YEAH.

8 IF EVERYONE'S IN AGREEMENT, I THINK THERE WAS -- THE  
9 TOTAL AMOUNT OF INVESTMENT IS SOMEWHAT CORRECT OR VERY CLOSE  
10 TO CORRECT, WHICH IS BETWEEN \$19 AND \$20 MILLION TOTAL THAT  
11 WENT IN. AND THIS STARTED PROBABLY AROUND 2005 AND ENDED  
12 AROUND 2007. THAT WAS ALL PRETTY MUCH ONE LUMP SUM IF YOU'RE  
13 GOING TO ADD EVERY ACCOUNT TOGETHER FROM AROUND 2005 ALL THE  
14 WAY TO THE ACCOUNTS STARTED IN 2007.

15 THERE WERE PURCHASES MADE, AND I BELIEVE THE  
16 PURCHASES THAT WERE MADE AT THOSE POINTS IN TIME WERE  
17 PURCHASES MADE FROM PROFITS, NOT NECESSARILY MADE FROM  
18 INVESTOR FUNDS. BECAUSE A LOT OF THE PROFITS THAT WERE  
19 RECEIVED WERE NOT RECEIVED IN THE ACCOUNTS. THEY WERE  
20 RECEIVED IN CASH.

21 THE COURT: WHAT PURCHASES ARE YOU TALKING ABOUT,  
22 THE BENTLEY AND THE WATCH?

23 THE DEFENDANT: NO. THOSE WERE MADE FROM THE  
24 ACCOUNTS. AS THE ACCOUNTING WAS DONE, THE ACCOUNTING -- IT  
25 WAS ALREADY ACCOUNTED FOR AS PROFITS, ALTHOUGH THERE WAS

1 ALREADY CASH PUT ASIDE.

2 NOW, BETWEEN -- I WOULD SAY AROUND 2006 -- AROUND  
3 THE MIDDLE OF 2006 IS WHEN BUSINESS STARTED GETTING WORSE AND  
4 WORSE. WITHIN TWO OR THREE MONTHS, PRETTY MUCH ALL THE  
5 PROFITS WERE GONE. AND THAT WAS AFTER ANY MAJOR PURCHASES  
6 WERE MADE, TO MY BEST RECOLLECTION. AND NOT ONLY WERE PRETTY  
7 MUCH MOST OR ALL THE PROFITS GONE, PRETTY MUCH THE PRINCIPAL  
8 WAS PRETTY MUCH GONE AS WELL.

9 I'M SOMEWHAT UNCOMFORTABLE NAMING NAMES RIGHT NOW  
10 BECAUSE I WOULD FEEL UNCOMFORTABLE FOR MY OWN SAFETY, BUT  
11 OUTSIDE OF THE PURCHASES, I WOULD GUESS THE PURCHASES THAT I  
12 WOULD HAVE MADE, WHICH I BELIEVE TO BE PROFITS AT THE TIME OF  
13 THOSE ACCOUNTINGS, WOULD BE MAYBE A MILLION DOLLARS AT MOST.

14 THE REMAINING \$9 OR \$10 MILLION OR \$11 MILLION  
15 MISSING WERE -- THE BEST WAY TO DESCRIBE IT IS I GOT SCAMMED  
16 OUT OF IT. AT THE TIME -- I STILL DO NOW. I FEEL HORRIBLE  
17 BECAUSE I SHOULD HAVE USED BETTER JUDGMENT IN INVESTIGATING  
18 THE TYPES OF INVESTMENTS THAT THESE PEOPLE TRUSTED ME TO  
19 INVEST THEIR HARD-EARNED LABOR WITH.

20 SO IT'S BEEN KIND OF SLOWLY KILLING ME EVER SINCE  
21 ALL THE PROBLEMS STARTED IN 2006 BECAUSE I'M NOT USED TO,  
22 WHETHER IT BE WILLINGLY OR INADVERTENTLY, BETRAYING PEOPLE'S  
23 TRUST. AND IT'S KIND OF LIKE A HOLE THAT I COULDN'T GET OUT  
24 OF BY MYSELF. I DIDN'T KNOW WHO TO CALL FOR HELP.

25 JUST TO ANSWER THE ORIGINAL QUESTION, WHERE DID THE

1       REMAINING \$9 OR \$10 OR \$11 MILLION GO, IF WE TAKE AWAY  
2       PROBABLY THE \$1 TO \$2 MILLION THAT I MAY HAVE SPENT, I DON'T  
3       HAVE THE ACCOUNTING IN FRONT OF ME, BUT IT WAS OTHER PEOPLE  
4       THAT TOOK IT.

5               TO SAY THEY STOLE IT, THAT MIGHT BE A LITTLE STRONG,  
6       BUT I WOULD SAY IT WAS THEFT BY DECEPTION. I SHOULD NOT HAVE  
7       LET THAT HAPPEN. THAT'S WHY I DON'T REALLY WANT TO POINT THEM  
8       OUT.

9               THE COURT: IS THERE A RECORD OF THE MONEY GOING TO  
10       THESE PEOPLE?

11              THE DEFENDANT: IT ALL OCCURRED WITHIN THOSE BANK  
12       ACCOUNTS.

13              THERE WAS CASH LENT OUT AS WELL.

14              THE COURT: HERE'S WHAT I DON'T GET: THE RECEIVER  
15       HAD A FORENSIC ACCOUNTANT WHO TESTIFIED AT THE TRIAL. THESE  
16       GOVERNMENT LAWYERS AND THE STAFF OF PEOPLE FROM SEC AND THE  
17       OTHER AGENCIES THAT INVESTIGATED THIS ARE ALL VERY  
18       SOPHISTICATED PEOPLE WHO CAN READ THE ACCOUNT, AND THEY KNOW  
19       HOW TO TRACE THE MONEY. AND NO ONE CAN FIND IT. YOU SAY IT  
20       WENT OUT THROUGH THESE NORMAL CHANNELS. THERE WOULD BE A  
21       RECORD OF IT, THEN. THEN I WOULDN'T HAVE THIS QUESTION.

22              THE DEFENDANT: I CERTIFY TO THAT 100 PERCENT. IT  
23       CAME OUT OF THE ACCOUNTS, AND IT CAME OUT IN CASH. THERE ARE  
24       NO HIDDEN ACCOUNTS OUT THERE THAT I KNOW OF. I HAVE NEVER  
25       BEEN ABLE TO REVIEW THE WORK THAT THEY DID.

1 THE COURT: THE WORK THAT --

2 THE DEFENDANT: THAT THE RECEIVER DID.

3 THE COURT: WELL, YOU'VE GOT THE REPORT; RIGHT?

4 THE DEFENDANT: NO, I DO NOT.

5 THE COURT: WELL, YOUR LAWYERS HAD THIS REPORT THAT  
6 THE FORENSIC ACCOUNTANT TESTIFIED AT TRIAL, AND THERE WAS  
7 EXTENSIVE TESTIMONY ABOUT TRACING THE MONEY, AND THERE WAS  
8 JUST NO ACCOUNTING FOR THIS.

9 YOU SAY IT WENT OUT THROUGH CHANNELS. THERE WOULD  
10 BE A RECORD OF IT. THE BANK DOESN'T SHOW ANY RECORD OF THIS  
11 MONEY GOING OUT. OTHERWISE, THEY WOULD HAVE BEEN ON TOP OF  
12 IT. THEY WOULD HAVE BIRD-DOGGED IT. YOU KNOW HOW THAT WORKS.

13 THE DEFENDANT: WELL, I REALLY NEVER MET WITH THE  
14 RECEIVER IN THE FIRST PLACE, BUT I COULD HAVE EASILY POINTED  
15 THAT OUT, WHERE EVERYTHING WENT.

16 THE COURT: WELL, OKAY.

17 MS. BETANCOURT, ANYTHING ELSE?

18 MS. BETANCOURT: NO, YOUR HONOR. I THINK WE LAID IT  
19 OUT IN OUR SENTENCING MEMORANDUM. I DON'T KNOW THAT WE CAN DO  
20 ANYTHING ELSE TO ANSWER THE COURT'S QUESTION AS TO WHERE THE  
21 MONEY IS AT. I THINK THERE WAS A LOT OF MONEY. HE -- A LOT  
22 OF THE MONEY WAS SENT OUT IN CASH, WAS PAID OUT IN CASH, WAS  
23 LOANED OUT IN CASH. HOW MUCH THAT REALLY ACCOUNTS FROM THE  
24 \$9 TO \$11 MILLION IS UNCLEAR, BUT --

25 THE COURT: WHO DID IT GO TO?

1 MS. BETANCOURT: INDIVIDUALS THAT MR. CAO FOR QUITE  
2 SOME TIME HAS NOT WANTED TO NAME, YOUR HONOR, AND HAS  
3 EXPRESSED THE SAME HERE TO US FROM THE BEGINNING.

4 THE COURT: I MEAN, MR. CAO, YOU REALIZE THAT YOU'RE  
5 IN A POSITION THAT IF YOU CAN NAME NAMES AND THEY CAN TRACE  
6 THIS MONEY AND GET SOME OF IT BACK, THAT'S GOING TO GO TO YOUR  
7 BENEFIT; RIGHT? IF YOU SAY, YOU KNOW, "LOOK, SO-AND-SO GOT A  
8 MILLION BUCKS," THEN THE AUTHORITIES ARE GOING TO GO AFTER  
9 SO-AND-SO AND TRY TO GET THE MILLION BACK.

10 IF IT'S ILL-GOTTEN PROCEEDS FROM THIS THING THAT YOU  
11 TRANSFERRED TO SOMEBODY AND IT GOES BACK INTO THE INVESTORS'  
12 ACCOUNT, THEN YOU, IN MY JUDGMENT AT LEAST -- AND I'M THE GUY  
13 SENTENCING YOU -- YOU'RE GOING TO GET CREDIT FOR THAT.

14 SO I DON'T KNOW WHY YOU WOULDN'T WANT TO TELL -- SIT  
15 DOWN WITH THE INVESTIGATORS ON THIS CASE AND SAY, "OKAY. A  
16 MILLION WENT HERE. 2 MILLION WENT HERE. CHECK THIS GUY OUT.  
17 HE'S GOT SOME OF IT." BECAUSE THAT HELPS YOU. THAT HELPS  
18 YOU.

19 NOW, AGAIN, IT'S UP TO YOU.

20 WELL, LET ME HEAR GENERALLY FROM YOU. I'M HAPPY TO  
21 HEAR WHATEVER YOU HAVE TO SAY, MR. CAO, WHATEVER STATEMENT YOU  
22 WANT TO MAKE TODAY.

23 THE DEFENDANT: OH, THE LAST STATEMENT, LIKE AN  
24 ALLOCUTION?

25 THE COURT: YEAH.

1 THE DEFENDANT: WELL, JUST TO ANSWER THAT LAST  
2 QUESTION, I WISH I COULD, BUT I REALLY -- I CAN'T CONSENT TO  
3 THAT. I CAN'T CONSENT TO REVEALING ANY --

4 THE COURT: I DON'T KNOW WHY. THESE GUYS WANT YOU  
5 TO GO TO PRISON FOR 40 YEARS. THAT'S A LONG TIME, MR. CAO.  
6 IF I WERE IN YOUR SHOES, I'D BE DOING ANYTHING I COULD TO MAKE  
7 THIS THING RIGHT, TO TRY TO MAKE THIS BETTER. IT'S CLEAR THAT  
8 NOT EVERYBODY'S GOING TO GET THEIR MONEY BACK. I GET THAT. I  
9 DON'T THINK THE INVESTORS ARE NAIVE ABOUT THAT.

10 BUT WHAT IS IT, A MATTER OF PRINCIPLE THAT YOU TELL  
11 ME "I JUST CAN'T NAME THESE NAMES"? IF YOU'RE WORRIED ABOUT  
12 YOUR SAFETY, THEY CAN PROTECT YOU. BUT IF THERE'S A WAY TO  
13 TRACE THESE FUNDS AND GET THEM BACK FROM PEOPLE AND GET THEM  
14 BACK TO THE PEOPLE WHO DESERVE IT, THEN YOU OUGHT TO EMBRACE  
15 THAT.

16 THE DEFENDANT: I WISH I COULD, BUT I CAN'T CONSENT  
17 TO THAT.

18 THE COURT: WELL, ALL RIGHT. I'M TELLING YOU MAN TO  
19 MAN THAT MAKES A DIFFERENCE TO ME. IT MAKES A DIFFERENCE IF  
20 YOU COULD BE THE INSTRUMENT IN GETTING SOME OF THIS MONEY BACK  
21 TO THESE PEOPLE, THEN I WOULD GO EASIER ON YOU. THAT JUST  
22 MAKES SENSE. YOU'RE TRYING TO MAKE THIS THING RIGHT.

23 WHAT'S THE REASON THAT YOU CAN'T CONSENT TO IT?

24 THE DEFENDANT: I BELIEVE I CAN DO IT WITHOUT THE  
25 HELP OF THE UNITED STATES. I JUST NEVER HAD A CHANCE TO DO IT



1 WITHOUT THEIR INTERFERENCE.

2 THE COURT: I DON'T KNOW, MR. CAO. YOU'RE GOING TO  
3 BE IN JAIL. YOU'RE NOT GOING TO HAVE ANY LEVERAGE IN JAIL.  
4 SO I DON'T KNOW HOW YOU'RE GOING TO DO THIS WITHOUT THE HELP  
5 OF THE UNITED STATES. THEY'VE GOT AGENCIES WITH FORENSIC  
6 ACCOUNTANTS, PEOPLE THAT CAN GO KNOCK ON DOORS. THEY CAN  
7 SUMMON PEOPLE TO A GRAND JURY AND CONTINUE AN INVESTIGATION IF  
8 THERE'S OTHER PEOPLE INVOLVED IN THIS AND PUT PRESSURE ON  
9 PEOPLE TO BRING THE MONEY BACK IN. YOU CAN'T DO THOSE  
10 THINGS.

11 THE DEFENDANT: YEAH. I REALLY CAN'T TRUST THEM TO  
12 DO IT EITHER.

13 THE COURT: WELL, YOU KNOW WHERE I STAND ON THIS.  
14 I'M HAPPY TO HEAR FROM YOU GENERALLY IN ALLOCUTION, AS YOU  
15 SAY.

16 THE DEFENDANT: FOR AND ON THE RECORD, I WISH THINGS  
17 COULD HAVE HAPPENED DIFFERENTLY. I WISH WE DIDN'T REALLY HAVE  
18 TO WASTE YOUR RESOURCES TO DO THIS TRIAL. AND IN THE INTEREST  
19 OF RECOMPENSATING OR COMPENSATING EVERYONE BACK WHO WAS  
20 INJURED FROM THIS PROCESS, I CAN'T CONSENT TO ANYTHING. I  
21 CAN'T CONSENT TO ANY OF YOUR OFFERS, ANY FURTHER OFFERS AT ALL  
22 BECAUSE I NEED TO SET THIS STRAIGHT FOR ALL THE PEOPLE THAT  
23 WERE HARMED.

24 THANK YOU.

25 MS. BETANCOURT: YOUR HONOR, IF I CAN JUST MAKE A

1 COUPLE MORE POINTS VERY BRIEFLY.

2 I WOULD LIKE TO POINT OUT TO THE COURT THAT MR. CAO  
3 IS STILL FACING FEDERAL CHARGES ON THE LIENS THAT WERE FILED.  
4 SO HE STILL HAS A PENDING CASE IN NEVADA.

5 THE COURT: I WASN'T ASKING HIM ABOUT THAT. I'M  
6 SAYING THAT THAT AFFECTED HIS ABILITY TO ANSWER THE QUESTIONS  
7 I PUT TO HIM. THAT HAS TO DO WITH THE PHONY LIENS. WHO KNOWS  
8 WHAT'S GOING TO HAPPEN ON THAT.

9 MS. BETANCOURT: I JUST WANT TO POINT THAT OUT  
10 BECAUSE THE COURT HAD RAISED THAT POINT AS HIM BEING  
11 OBSTRUCTIVE IN THE BEGINNING. BUT HE'S FACING CHARGES FOR  
12 THAT, IS WHAT I WANTED TO POINT OUT TO THE COURT. THERE'S  
13 STILL A POTENTIAL SENTENCE HE WILL BE FACING.

14 THE COURT: IT'S A NUISANCE, BUT IT'S SMALL POTATOES  
15 COMPARED TO THE MONEY THAT WAS TAKEN HERE.

16 MS. BETANCOURT: THE GOVERNMENT MAKES A BIG POINT AS  
17 TO THAT. THE GOVERNMENT DOESN'T IT AS A NUISANCE, BUT  
18 SOMETHING THAT PEOPLE COULD HAVE BEEN INJURED FROM.

19 THE COURT: WELL, THEY CAN. IT'S NOT FUN TO BE  
20 UNDER ONE OF THOSE THINGS. I'VE HAD THAT HAPPEN TO ME. LIKE  
21 I SAID, IT'S A NUISANCE. AS I PUT IT IN CONTEXT FOR YOU,  
22 MS. BETANCOURT, IT WAS PART OF THE CONTINUING PATTERN OF  
23 BELLIGERENT CONDUCT ON MR. CAO'S PART.

24 INSTEAD OF SAYING, "OKAY. I GIVE. THEY'RE ON TO  
25 ME. THEY'RE ON TO THING" -- I MEAN, HE KNEW WHAT HE'D DONE.

1 HE SAT DOWN WITH THE LAWYER WITH THE SEC AND ADMITTED PHONYING  
2 UP THE WELLS FARGO DOCUMENT. THE GIG WAS UP AT THAT POINT.  
3 INSTEAD OF CEASING AND DESISTING AND TRYING TO MAKE THINGS  
4 RIGHT, HE RATCHETED IT UP. HE DID. THAT'S AN AGGRAVATED PART  
5 OF THIS CASE.

6 MS. BETANCOURT: CORRECT. I DON'T KNOW THAT AT THAT  
7 POINT HE RATCHETED IT UP ANY FURTHER, FRAUD OR TAKING OF MONEY  
8 FROM THE INVESTORS IN THAT CASE.

9 THE COURT: I JUST DIDN'T LIKE THE APPROACH. TO  
10 TELL THAT ONE UNSOPHISTICATED GUY -- TO MOCK HIM IN THE  
11 E-MAIL, CALL HIM A TURTLE, USED THE FOUL TONGUE IN THE THING  
12 BACK TO HIM, ALL OF THAT STUFF WAS -- PORTRAYS A LEVEL OF  
13 BELLIGERENCE ON MR. CAO'S PART.

14 YOU SHOULDN'T HAVE DONE THAT, MR. CAO. YOU KNEW  
15 THAT THAT GUY WAS RIGHTEOUS IN COMPLAINING ABOUT IT. TO MOCK  
16 HIM AND KIND OF RUB IT IN THAT HE'D LOST ALL THAT MONEY,  
17 THAT'S -- I DON'T KNOW WHY YOU DID SOMETHING LIKE THAT.

18 MS. BETANCOURT: THAT WAS ONE INVESTOR OUT OF THE  
19 NUMBER OF INVESTORS THAT THE COURT HAS, YOUR HONOR.

20 THE COURT: NO, I KNOW, MS. BETANCOURT. WHAT I'M  
21 SAYING IS IT WAS A PATTERN ON HIS PART. TRYING TO HIDE THE  
22 BENTLEY. YOU SAY, "WELL, HE WAS TRYING TO GIVE THE MONEY  
23 BACK." HE WAS UNDER A FEDERAL COURT ORDER NOT TO MOVE ANY  
24 MONEY AND HE DOES. HE'S THE KIND OF GUY WHO'S GOING TO DO  
25 WHAT HE WANTS TO DO.

1 TO SOME EXTENT, MR. CAO HAS BEEN RESPECTFUL TODAY.  
2 YOU'RE RIGHT. HE'S BEEN RESPECTFUL THROUGH THE TRIAL. HE  
3 DIDN'T TRY TO OBSTRUCT OR DELAY THINGS WITH ME. BUT I DON'T  
4 GET IT TODAY. I DON'T UNDERSTAND THIS CRYPTIC STATEMENT THAT  
5 "I CAN'T DO IT. I DON'T TRUST THE GOVERNMENT TO DO IT." THAT  
6 DOESN'T MAKE ANY SENSE.

7 MS. BETANCOURT: MR. CAO WILL POTENTIALLY BE, IF THE  
8 GOVERNMENT GETS THEIR WAY, 40 YEARS IN PRISON. SO I DON'T  
9 THINK THAT THE GOVERNMENT CAN REALLY PROTECT HIM WHILE IN  
10 CUSTODY. I DON'T THINK HE WANTS TO SPEND THE REST OF HIS TIME  
11 IN ADMINISTRATIVE SEGREGATION SO THAT HE'S PROTECTED.

12 THE COURT: WHAT I'M TELLING HIM IS TANGIBLE,  
13 MS. BETANCOURT. I'M TELLING HIM IF HE MAKES THIS BETTER, IF  
14 HE REMEDIATES THIS SITUATION TO SOME EXTENT, WHICH I THINK HE  
15 CAN DO, THEN I'M NOT GOING TO LOWER THE BOOM ON HIM.

16 SO I'M TRYING TO GIVE HIM A CARROT, AND HE'S NOT  
17 TAKING IT. FRANKLY, IT'S HEAD-SCRATCHING TO ME. IT'S BIZARRE  
18 FOR HIM TO SAY, "WELL, I'M GOING TO DO THIS MYSELF. I DON'T  
19 TRUST THE GOVERNMENT TO DO IT."

20 HE'S A SMART GUY. HE'S A VERY ARTICULATE GUY. I  
21 READ ALL ABOUT HIS BACKGROUND. AMERICAN SUCCESS STORY;  
22 BUSINESS DEGREE, HIS CERTIFICATIONS, SECURITIES DEALER. SO HE  
23 UNDERSTANDS WHAT I'M SAYING. WE'RE SORT OF TALKING AROUND THE  
24 EDGES OF THIS THING IN A LEVEL OF NAIVETÉ THAT REALLY ISN'T  
25 JUSTIFIED HERE.

1 HE'S IN A POSITION TO TELL THEM WHERE THE MONEY WAS  
2 TRANSFERRED AND LET THEM FOLLOW THE MONEY AND TRY TO GET IT  
3 BACK. I CAN'T MAKE IT CLEARER THAT THAT WOULD AFFECT MY  
4 SENTENCING JUDGMENT IF HE WERE WILLING TO DO THAT, BUT HE'S  
5 UNWILLING. I DON'T UNDERSTAND WHY. I DON'T UNDERSTAND THE  
6 CRYPTIC RESPONSE.

7 MS. BETANCOURT: ALL I WOULD LIKE TO SAY, YOUR  
8 HONOR, IS THAT HE DOES HAVE A BABY DAUGHTER. HE WOULD RETURN  
9 TO THE SAME HOME THAT INDIVIDUALS KNOW WHERE HE LIVES AT. HE  
10 WOULD LIVE IN THE SAME COMMUNITY. AND THAT'S ALL I HAVE TO  
11 SAY.

12 THE COURT: MS. BETANCOURT, YOU AND I BOTH KNOW  
13 THERE'S ALWAYS STEPS THAT CAN BE TAKEN. AND, YOU KNOW, IF YOU  
14 WANT -- THE ONE GUY WHO'S HAD ANY -- HAS EXHIBITED ANY  
15 VIOLENCE OR THREAT OF VIOLENCE IN THIS CASE IS MR. CAO, NOT  
16 OTHER PEOPLE. I DON'T HAVE ACCOUNTS OF OTHER PEOPLE TALKING  
17 ABOUT CHOPPING A BABY UP IN FRONT OF SOMEBODY IF THEY DON'T  
18 GET THE MONEY BACK. I DON'T HAVE OTHER PEOPLE WITH BODY ARMOR  
19 OR FIREARMS. THAT'S MR. CAO.

20 MS. BETANCOURT: YOU DON'T KNOW THE OTHER  
21 INDIVIDUALS WHO WERE INVOLVED IN THIS.

22 THE COURT: NO, I DON'T. LIKE I SAID, HE STANDS  
23 CONVICTED. I READ THE APPELLATE OPINION. WHAT KIND OF PERSON  
24 THREATENS THAT? "DO WHAT I WANT OR I'M GOING TO KILL YOUR  
25 FAMILY AND CHOP YOUR BABY UP IN FRONT OF YOU."

1 MS. BETANCOURT: THE COURT SENTENCED HIM TO  
2 PROBATION IN THAT CASE.

3 THE COURT: I KNOW, BUT I'M FRUSTRATED WITH HIS  
4 INTRANSIGENCE ON THIS. I AM, BECAUSE I JUST THINK HE'S IN A  
5 POSITION TO MAKE HIS SITUATION BETTER, AND HE WON'T EMBRACE  
6 THAT.

7 ANYWAY, I APPRECIATE YOUR REMARKS, MS. BETANCOURT.  
8 ON BEHALF OF THE UNITED STATES.

9 MR. ORABONA: YOUR HONOR, I THINK YOU'VE HIT THE  
10 NAIL WITH THE HAMMER; A PATTERN OF OBSTRUCTION AND  
11 BELLIGERENCE. YOU SEE IT TODAY. YOU ASK THE DEFENDANT A  
12 SIMPLE QUESTION, AND HE DANCES AROUND IT. HE'S GOING TO  
13 OBSTRUCT AT EVERY ANGLE HE CAN GET, EVEN TODAY WHEN YOU ASK  
14 HIM "WHERE'S THE MONEY?"

15 YOUR HONOR, THE STATEMENT THAT THE MONEY WAS FOR  
16 PROFITS, THERE WERE NO PROFITS. WE LISTENED TO THE TESTIMONY  
17 OF THE RECEIVER. THE RECEIVER SAID THERE IS NO BUSINESS.  
18 THERE WAS NO PROFITS, THIS CASH THAT HE ALLEGEDLY SPENT. THEN  
19 WHERE'S THE 12 MILLION? IF HE SPENT A MILLION DOLLARS IN  
20 CASH, THEN THERE WOULD BE 12 MILLION SITTING SOMEWHERE. SO IS  
21 HE NOW TELLING US THAT THERE'S MORE MONEY THAN WE SUSPECT THAT  
22 IS LOST?

23 THE BANK ACCOUNTS THEMSELVES, THERE WERE OVER  
24 60 BANK ACCOUNTS. YOUR HONOR, IF I BROUGHT THE CHART IN HERE  
25 THAT THE FEDERAL AGENTS PUT TOGETHER, I PROMISE YOU IT WOULD

1 TAKE ME AT LEAST THREE HOURS TO EXPLAIN IT TO THE COURT ON HOW  
2 WE TRIED TO TRACE THE MONEY FROM THESE 60 DIFFERENT ACCOUNTS.  
3 THOSE WERE JUST THE 60 ACCOUNTS THAT WE KNEW ABOUT.

4 SO THE FACT THAT MR. CAO IS TRYING TO SAY "WELL,  
5 THIS MONEY WENT TO OTHER PEOPLE, OTHER PEOPLE HAD THIS MONEY,"  
6 THAT'S JUST HOGWASH. HE CONTROLLED ALL THE BANK ACCOUNTS.  
7 ALL 60 BANK ACCOUNTS WERE ALL IN HIS NAME. THE MONEY ALL WENT  
8 THROUGH HIS HANDS.

9 IT'S SOMEWHERE. AND THE UNITED STATES GOVERNMENT  
10 DOESN'T KNOW WHERE, BUT HE DOES. WE DO KNOW THAT \$1.7 MILLION  
11 WENT OVERSEAS. WE DO KNOW THAT BASED ON AN ANALYSIS OF THOSE  
12 RECORDS, THAT ABOUT \$2.2 MILLION WAS TAKEN OUT OF ALL THOSE  
13 ACCOUNTS IN VARIOUS CASH TRANSACTIONS, SUCH AS CASHIER'S  
14 CHECKS AND THE LIKE.

15 AT THE TIME WHEN MR. CAO WAS FINALLY UNDER  
16 INVESTIGATION AND KNEW ABOUT IT, WHEN HE TOOK THE MONEY OUT  
17 AND HE SAYS "WELL, THE OTHER PEOPLE GOT IT," YES, HE PAID BACK  
18 PEOPLE, BUT HE PAID BACK HIS FRIENDS. HE PAID BACK LUDY  
19 GROSNICKLE. HE PAID BACK DOUG LORENZEN. HE PAID BACK VERMEIL  
20 AGUSTIN. HE PAID THESE PEOPLE BACK FIRST WHEN HE WASN'T EVEN  
21 SUPPOSED TO TAKE MONEY OUT OF THE ACCOUNT.

22 SO THE PEOPLE HE WAS PAYING BACK WERE NOT THE POOR  
23 INVESTORS THAT WE PUT BEFORE YOUR HONOR, NOT THE 190 OR SO  
24 PEOPLE LISTED ON THE RESTITUTION ORDER. HE DIDN'T PAY THEM  
25 BACK. SO TO SUGGEST THAT THE MONEY WAS JUST LOST -- I MEAN,

1 HE'S RIGHT, HE DID LOSE \$2 TO \$3 MILLION IN THAT THINK  
2 INVESTMENT THAT WE DID HEAR TESTIMONY ON WHICH HIS THREATS  
3 CASE WAS RELATED TO. SO HE DID LOSE SOME OF THE MONEY.

4 I THINK THAT WE CAN ACCOUNT FOR MAYBE ABOUT  
5 SIX MILLION IF YOU TAKE A MILLION DOLLARS FROM THE REAL  
6 ESTATE, ABOUT THREE MILLION DOLLARS LOST ON THE THINK, AND  
7 1.78 MILLION OVERSEAS. SO WE CAN ACCOUNT FOR ABOUT SIX  
8 MILLION DOLLARS OF THE MONEY BEING LOST. AND WHERE IS THE  
9 REST OF IT? AND SO THE FACT THAT SOMEHOW IT IS IN SOMEBODY  
10 ELSE'S HANDS MR. CAO ISN'T CONTROLLING IT, HE DOESN'T HAVE IT  
11 IS JUST NONSENSE.

12 THE COURT: DO YOU HAVE ANY IDEA WHOM HE IS TALKING  
13 ABOUT WHEN THE KIND OF CRYPTICALLY REFERS TO THESE OTHER  
14 PEOPLE AND HE IS NOT WILLING TO SHARE THE INFORMATION WITH THE  
15 GOVERNMENT? DO YOU HAVE ANY IDEA WHO THEY MIGHT BE?

16 MR. ORABONA: YOUR HONOR, NO, WE DON'T HAVE ANY IDEA  
17 WHO THOSE PEOPLE ARE. IF I CAN SPECULATE BASED ON THE THREATS  
18 CASE WHEN HE TOLD THAT PERSON HE WAS GOING TO CHOP UP THEIR  
19 FAMILY AND KILL THEIR BABY, HE WAS REFERENCING TO THE FAMILY  
20 AND THE FAMILY WANTS ITS MONEY BACK. I DON'T KNOW IF THAT'S  
21 TRUE OR MR. CAO WATCHES TOO MANY GANGSTER MOVIES.

22 BUT NO, THERE IS NO EVIDENCE THAT THIS MONEY WAS  
23 SOMEHOW TRANSFERRED TO SOME SORT OF OTHER TYPES OF CRIMINALS.  
24 THE BANK ACCOUNTS WERE CONTROLLED BY HIM. THE MONEY WENT  
25 THROUGH HIS HANDS, AND HE SPENT SOME OF IT ON HIMSELF, AND



1 SOME OF IT IS LOST, \$12 MILLION THAT THE INVESTORS HAVE LOST.

2 THE COURT: WOULD THE GOVERNMENT'S POSITION,  
3 MR. ORABONA, BE DIFFERENT IF HE CAME FORWARD WITH A  
4 SUBSTANTIAL AMOUNT OF MONEY TO PAY BACK?

5 MR. ORABONA: YOUR HONOR, I THINK THAT'S WHAT RULE  
6 35 IS FOR. THAT OVERTURE OBVIOUSLY IS MADE TODAY. HE CAN  
7 CERTAINLY DO THAT, BUT HE HAD SINCE 2007 SINCE THE  
8 INVESTIGATION BEGAN FOUR YEARS AGO. HE HAS NEVER COME  
9 FORWARD.

10 THE COURT: I WANT TO BE CLEAR ABOUT THIS. AND I  
11 DON'T KNOW IF MR. CAO KNOWS WHAT RULE 35 IS. IT'S ESSENTIALLY  
12 A MECHANISM, MR. CAO, THAT ALLOWS THE GOVERNMENT TO COME BACK  
13 AND ASK FOR ME TO IMPOSE A DIFFERENT SENTENCE FOR UP TO A  
14 YEAR. THEY HAVE TO FILE THE MOTION WITHIN A YEAR. THEY  
15 TYPICALLY DO THAT WHEN SOMEBODY COOPERATES OR MAKES THE  
16 SITUATION BETTER.

17 ARE YOU SAYING THAT YOU'D BE WILLING TO FILE A RULE  
18 35 MOTION ON HIS CASE IF HE WERE FORTHCOMING AND THERE WAS A  
19 SUBSTANTIAL AMOUNT OF MONEY RETURNED TO THE INVESTORS?

20 MR. OWENS: YES, YOUR HONOR. IF HE DOES QUALIFY FOR  
21 RULE 35. I WANT TO CAUTION MAINLY TO MR. CAO ON THIS POINT.  
22 I HAVE GOT OTHER FRAUD CASES THAT ARE POST TO SENTENCE, "WAIT,  
23 I NOW HAVE A MILLION DOLLARS. I FOUND IT, AND I WANT TO TURN  
24 IT OVER." AND WE OFTEN LEARN LATER ON FROM ANOTHER SCAM.

25 SO THERE IS A VERY LENGTHY PROCESS TO DETERMINE

1 WHETHER THE MONEY IS CLEAN OR NOT. EVEN IF HE COMES FORWARD  
2 WITH \$1.78 MILLION FROM CHINA, WE MAY NOT BE ABLE TO TAKE IT,  
3 BECAUSE IT COULD LITERALLY BE VICTIMS IN ASIA, VICTIMS IN  
4 CANADA, VICTIMS WHEREVER.

5 YES, YOUR HONOR, OF COURSE, WE WOULD HONOR A RULE 35  
6 OBLIGATION. BUT FROM OUR PROSPECTIVE, LOOK WHOM WE ARE  
7 DEALING WITH HERE. IF HE COMES UP WITH A CHECK OR A BAG OF  
8 CASH OF TWO MILLION DOLLARS, I WOULD SEE THE SERVICE AND SAY  
9 "HEY, LOOK, WE DON'T KNOW WHAT THE SOURCE OF THESE FUNDS ARE.  
10 WE HAVE TO VERIFY."

11 THE COURT: I SUPPOSE, THAT'S ONE POSSIBILITY. THE  
12 OTHER POSSIBILITY IS THAT THERE IS \$10 OR \$11 MILLION  
13 SOMEWHERE AND HE KNOWS WHERE, AND HE CAN CONNECT THE DOTS AND  
14 SHOW YOU HOW IT COME FROM HIM AND IT IS COMING BACK TO THE  
15 GOVERNMENT TO DISPENSE THAT THESE PEOPLE THAT THESE PEOPLE  
16 HAVE LOST ALL THE MONEY.

17 MR. OWENS: ANYTHING IS POSSIBLE, YOUR HONOR. I  
18 JUST WANT TO MAKE IT CLEAR JUST BECAUSE HE COME FORWARD AND  
19 SAYS, "I HAVE TWO MILLION IN THIS ACCOUNT" --

20 THE COURT: NO, THAT'S UNDERSTOOD. FRANKLY, I AM  
21 NOT ENCOURAGED THAT HE IS EVEN GOING TO TAKE THE INVITATION TO  
22 DO THAT, BUT I JUST WANTED TO MAKE SURE THAT IT WAS THERE -- A  
23 WILLINGNESS WAS THERE ON THE PART OF THE UNITED STATES IN THE  
24 EVENT THAT HE CHANGES HIS MIND AT SOME POINT. THERE IS A  
25 WILLINGNESS AT LEAST TO LISTEN TO WHAT HE HAS TO SAY.

1 GO AHEAD, MR. ORABONA.

2 MR. ORABONA: YOUR HONOR, HE DID MAKE REFERENCE TO  
3 THE FACT THAT HE HAS NEVER SEEN THE FORENSIC ACCOUNTANT  
4 ANALYSIS. WE TURNED ALL THAT STAFF OVER WELL IN ADVANCE OF  
5 THE TRIAL. HE HAS ALL THOSE RECORDS. HE CAN ALSO ACCESS ON  
6 THE INTERNET. THE RECEIVER HAS A WEBSITE AND POSTS ALL HIS  
7 REPORTS. ALL THAT INFORMATION IS AVAILABLE TO MR. CAO. ALL  
8 HE NEEDS TO DO IS REALLY TO SIT DOWN AND TAKE A LOOK AT IT.  
9 HE COULD CERTAINLY GET THE INFORMATION FROM THE RECEIVER OF  
10 THE GOVERNMENT.

11 YOUR HONOR, LOOK, THE GUIDELINES IN THIS CASE ARE  
12 NOT DISPUTED. THEY ARE NOT DISPUTED BY THE DEFENSE. WE AGREE  
13 WITH PROBATION'S CALCULATION. WE ACTUALLY CONCUR WITH THEIR  
14 CALCULATION.

15 THIS IS A SERIOUSLY DANGEROUS INDIVIDUAL WHO NOT  
16 ONLY POSES A PHYSICAL THREAT TO PEOPLE WHEN HE GETS OUT OF  
17 PRISON BASED ON THE PRIOR CONVICTION, BUT HE ALSO POSTS A  
18 SERIOUS ECONOMIC THREAT. HE KNOWS HOW TO MANIPULATE PEOPLE.  
19 THE REFERENCE TO THE FACT THAT THERE IS A SMART PHARMACEUTICAL  
20 INDIVIDUAL WHO IS A WITNESS WHO IS A VICTIM IN THIS CASE -- I  
21 KNOW YOU COULDN'T BLAME THE VICTIMS IN THIS CASE. I WOULDN'T  
22 EXPECT YOU TO, BUT THE FACT THAT SHE IS MAKING DOOM BECAUSE  
23 MR. CAO AROUND GOES THE BEND HERE GOES TO SHOW HOW  
24 MANIPULATIVE HE IS AND HOW SUCCESSFUL HE IS AT THAT  
25 MANIPULATION. HE CAN CONVINCE SOMEBODY LIKE THAT TO GIVE HIM

1       \$100,000 TO INVEST.

2               YOUR HONOR, I THINK THAT THE SENTENCE THAT THE  
3       GOVERNMENT IS RECOMMENDING IN THIS CASE IS MORE THAN  
4       REASONABLE. I DON'T THINK IT'S GREATER THAN NECESSARY. I  
5       THINK THE RESTITUTION SHOULD BE ORDERED IN THIS CASE FOR THE  
6       VICTIMS, AND I ALSO DON'T THINK THAT DEFENSE IS ARGUING "DON'T  
7       GIVE HIM A LONG TIME IN PRISON, BECAUSE IF YOU GIVE HIM A LONG  
8       TIME IN PRISON, HE WON'T BE ABLE TO PAY BACK THE VICTIMS."  
9       WELL, THAT ARGUMENT WAS REJECTED IN THE NINTH CIRCUIT OPINION,  
10      AND THEY SAID THAT THAT'S FRIVOLOUS.

11              YOUR HONOR, I THINK THE 480 MONTHS THAT WE ARE  
12      RECOMMENDING IS REASONABLE. THANK YOU.

13              MS. BETANCOURT: JUST A COUPLE OF COMMENTS.  
14      THE MISSING MONEY IS REALLY IN THE FOUR AND FIVE MILLION  
15      DOLLARS. IT'S NOT THE \$12 MILLION. THEY COULD ACCOUNT FOR  
16      THE OVERSEAS LOSS.

17              THE COURT: HE SAYS WE CAN ACCOUNT FOR SIX MILLION  
18      WHICH MR. CAO SAYS IT WAS 19 OR 20 MILLION TAKEN. MR. ORABONA  
19      SAYS WE CAN ACCOUNT FOR \$6 MILLION IN MONEY SPENT, PAY-OUTS  
20      BACK TO PEOPLE. SO THAT TAKES US DOWN TO THE 11 OR 12. I  
21      DON'T THINK HE IS SAYING, MS. BETANCOURT, THAT WE TAKE THE SIX  
22      MILLION OFF THE 11 OR 12.

23              MR. ORABONA, AM I RIGHT ABOUT THAT? YOU ARE NOT  
24      CLAIMING THAT THE NET LOSS IS FIVE OR SIX MILLION?

25              MR. OWENS: THE WAY WE LOOK AT IT IS THERE IS \$19

1 MILLION INVESTED BY VICTIMS. ABOUT SIX OR SEVEN MILLION  
2 DOLLARS OF THAT WAS PAID BACK IN TERMS OF THE CASH PAYMENT TO  
3 THE PARTIES. WE CAN ACCOUNT FOR PROBABLY ABOUT HALF OF THAT  
4 MONEY. THESE ARE ROUGH NUMBERS. THE BEST PERSON WOULD BE THE  
5 RECEIVER ON THIS POINT. A MILLION DOLLARS INVESTED IN REAL  
6 ESTATE, THREE MILLION DOLLARS TO THINK WHICH IS THAT  
7 INVESTMENT THAT WENT BAD.

8 THE COURT: YOU SAY THAT COMES OFF OF THE 11 OR 12  
9 MILLION?

10 MR. OWENS: CORRECT. THE 1.78 MILLION TO CHINA.  
11 THERE ALSO WAS A COUPLE OF MILLION DOLLARS MR. CAO HAD CASH  
12 WITHDRAWALS, SPENDING ON HIS AMERICAN EXPRESS CARD, HIS  
13 PARENTS'S REMODEL ON THE HOUSE. WE CAN ACCOUNT FOR SOME OF  
14 THAT. YOU ARE RIGHT. THERE IS STILL A BIG CHUNK OF MONEY  
15 THAT WAS --

16 THE COURT: WHAT HAPPENED TO 1.7 MINIMUM THAT WENT  
17 TO HONG KONG?

18 MR. OWENS: WE DON'T KNOW, YOUR HONOR. THE RECEIVER  
19 HAS LITIGATION AND THEY DO EVERYTHING THEY CAN TO RECOVER THAT  
20 MONEY. IT'S GONE.

21 MS. BETANCOURT: ACCORDING TO MR. MAKUTAY, THE  
22 CONVERSATIONS WE HAD WITH HIS ATTORNEY, HE IS MORE THAN  
23 WILLING TO GIVE IT BACK. IT IS BEING INVESTED. THAT WAS THE  
24 REQUEST -- THE REASON WE REQUESTED A CONTINUANCE. THAT  
25 INDIVIDUAL REFUSED TO RETURN OUR PHONE CALLS, EITHER HIMSELF

1 OR THROUGH HIS ATTORNEY, YOUR HONOR.

2 MR. CAO HOPES THAT THEY ARE ABLE TO RECOVER THAT  
3 MONEY. SO I DO WANT TO COME BACK TO THE FACT THAT IT ISN'T  
4 THE 12 MILLION. WE ARE CLOSER TO FOUR OR FIVE MILLION, STILL  
5 A LARGE OF AMOUNT OF MONEY THAT COULD MAKE THE INVESTORS  
6 WHOLE.

7 I ALSO -- THERE ARE A LOT OF THINGS THAT THE COURT  
8 COULD DO ON SUPERVISED RELEASE. MR. CAO IS A VERY INTELLIGENT  
9 INDIVIDUAL, LOST HIS WAY CLEARLY DURING THE SCHEME. THERE ARE  
10 LOT OF THINGS THAT CAN BE DONE TO GET HIM BACK ON TRACK. HE  
11 HAS A LOT MORE TO LIVE FOR RATHER THAN -- I DON'T KNOW.

12 I THINK A BIG THING TO CONSIDER HERE IS THAT HE DOES  
13 HAVE FAMILY SUPPORT. I THINK THAT THEY WERE BLIND TO WHAT WAS  
14 GOING ON TRULY WITH MR. CAO AT THAT POINT. HE HAS A YOUNG  
15 DAUGHTER THAT HE HOPES THAT HE CAN AT LEAST HAVE SOME TIME TO  
16 RAISE.

17 WITH THAT, YOUR HONOR, I WOULD SUBMIT ON THAT.

18 THE COURT: THANK YOU, MS. BETANCOURT.

19 IS IT AGREED THAT THE GUIDELINE CALCULATIONS, WHICH  
20 ARE THE SAME AS THE GOVERNMENT'S SENTENCING SUMMARY CHART AND  
21 THE PROBATION REPORT, ARE NOT CONTESTED?

22 MS. BETANCOURT: THAT'S CORRECT, YOUR HONOR.

23 OTHER THAN TO SAY I DON'T THINK THAT -- OTHER THAN  
24 THE EXCEPTION THAT THE GUIDELINES WERE NOT BASED ON ANY  
25 EMPIRICAL EVIDENCE.

1 THE COURT: RIGHT. I HAVE THOSE OBJECTIONS IN MIND,  
2 BUT THE CALCULATIONS AT LEAST ARE NOT DISPUTED HERE. YOU  
3 DISPUTE THE SUBJECTIVE REASONABLENESS OF THE RESULT THAT THEY  
4 PRODUCE. AND AS YOU SAID, MAKE AN ARGUMENT THAT THE  
5 GUIDELINES THEMSELVES ARE FLAWED BECAUSE THEY ARE NOT BASED ON  
6 EMPIRICAL RESEARCH, AT LEAST IN THIS BROAD AREA.

7 THOSE THINGS SAID, THEY ARE WHAT THEY ARE, AND THE  
8 COURT IS CHARGED IN THE FIRST INSTANCE WITH GETTING THE  
9 GUIDELINES CALCULATIONS CORRECTLY. THE NUMBERS AT LEAST ARE  
10 NOT DISPUTED BY THE DEFENSE IN THIS CASE.

11 THE COURT ADOPTS THE GUIDELINE CALCULATIONS IN THE  
12 GOVERNMENT'S SENTENCING SUMMARY CHART THAT ARE MIMICKED IN THE  
13 PROBATION.

14 THE BASE LEVEL IS SEVEN, 20 POINTS ARE ADDED BECAUSE  
15 THE LOSS OF THE VICTIMS IN THIS CASE WAS APPROXIMATELY 12.4  
16 MILLION. ABOUT 190 VICTIMS IN THIS CASE, SO MORE THAN 50  
17 WHICH ADDS FOUR ADDITIONAL POINTS.

18 THE MEANS USED TO PERPETRATE THE FRAUD WERE  
19 SOPHISTICATED MEANS. THAT IS BORNE OUT BY THE TRIAL  
20 TESTIMONY. IT'S NOT CONTESTED AT SENTENCING. THAT ADDS TWO.  
21 MR. CAO CERTAINLY HAD AN AGGRAVATING ROLE IN THAT HE WAS A  
22 LEADER AND ORGANIZER. THERE WERE MORE -- WAS IT FOUR OTHER  
23 PEOPLE OR SIX? WHAT'S THE NUMBER FOR THAT LEADER/ORGANIZER?

24 MR. OWENS: I BELIEVE IT'S FIVE OR MORE, YOUR  
25 HONOR.

1 THE COURT: THE PROBATION REPORT AND THE  
2 GOVERNMENT'S SENTENCING MEMO IDENTIFIES WITH THE OTHERS WHERE  
3 THERE WAS SOME REFERENCE TO THEM TODAY. THERE WAS AN ABUSE OF  
4 TRUST HERE WHICH ADDS TWO. AND THE COURT FINDS THAT THERE WAS  
5 CONDUCT THAT AMOUNTED TO OBSTRUCTION OF JUSTICE. I TOUCHED ON  
6 IT. IT WAS NOT JUST A PLACING LIENS ON JUDGES'S AND THE  
7 AGENTS'S AND BANKERS'S HOMES AND IN THEIR NAMES, BUT THERE WAS  
8 OTHER CONDUCT. IT WAS TRYING TO HIDE THE BENTLEY WHEN HE KNEW  
9 THEY WERE AFTER IT. THERE WERE A NUMBER OF OTHER ILL-FATED  
10 DECISIONS MADE BY MR. CAO.

11 THE RESULT IS THAT CUMULATIVELY THE DEFENSE LEVEL  
12 HERE IS 41. MR. CAO HAS A PRIOR CONVICTION. IT IS SOMEWHAT  
13 RELATED, BUT IT SCORES AND PUTS HIM IN CRIMINAL HISTORY  
14 CATEGORY TWO. THE CONVICTIONS HAVE ALSO ALLUDED TO IT. IT'S  
15 FULLY DESCRIBED IN THE PROBATION REPORT. IT HAS TO DO WITH  
16 MAKING THREATS TO KILL. HE WAS CONVICTED BY A JURY, AND AS  
17 MS. BETANCOURT POINTS OUT, SENTENCED TO PROBATION. BUT IT  
18 STILL TAKES HIM OUT OF CRIMINAL HISTORY CASTIGATORY ONE.

19 THE RANGE IS HERE IS 360 MONTHS TO LIFE. THE  
20 GOVERNMENT HAS RECOMMENDED A 420-MONTH SENTENCE.

21 MR. OWENS: I BELIEVE 480, YOUR HONOR.

22 THE COURT: I AM SORRY. 480-MONTH SENTENCE IN THIS  
23 CASE WHICH WOULD BE A 40-YEAR SENTENCE.

24 I LOOKED AT THIS UNDER 3553(A). THE NATURE AND  
25 SERIOUSNESS AND CIRCUMSTANCES. THIS IS A SERIOUS OFFENSE,



1 MR. CAO. AND I LOOKED VERY CAREFULLY AT THAT COMPARATIVE DATA  
2 BOTH SIDES HAVE SUPPLIED REGARDING SIMILAR CASES. HE IS NOT  
3 BERNIE MADOFF, THAT'S TO BE SURE. THE SCALE OF THIS THING IS  
4 NOT ON THE SCALE OF THAT, NOT ON SCALE WITH ENRON, JEFFREY  
5 SKILLING, OR BERNIE EBBERS. IT'S NOT ON SCALE IN TERMS OF THE  
6 AMOUNT OF LOSS. IT IS HARD TO MAKE THAT COMPARISON BETWEEN  
7 THIS CASE AND THE ONE CITED IN THE GOVERNMENT'S BRIEF AND THE  
8 ONE IN MR. PACKER'S CHART.

9 THE MOST I CAN DO, I THINK, IS TO PUT IT IN THE  
10 RANGE OF WHAT THE LOSS WAS IN THOSE OTHER CASES. THE  
11 EVIDENCE -- YOU CITE DIFFERENT CASES, AND THE EVIDENCE GOES  
12 TWO DIFFERENT WAYS. THE CASES CITED BY THE GOVERNMENT, THE  
13 LOSS IS SIMILAR AND THE SENTENCES ARE WAY UP CLOSE TO WHERE  
14 THEIR RECOMMENDATION IS. SOME LOWER, BUT SOME ALSO HIGHER.

15 IF I LOOK AT THE DEFENSE MEMORANDA, YOU POINT OUT  
16 THAT THE NUMBER OF CASES WHERE THE LOSS WAS ABOUT LIKE THIS  
17 AND THE SENTENCE WAS 10 PERCENT OF WHAT THE GUIDELINES WERE OR  
18 FIVE PERCENT. I DON'T KNOW THE CIRCUMSTANCES OF THOSE CASES.  
19 OTHER THAN THIS GROSS COMPARISON OF WHAT THE LOSS AMOUNT IS,  
20 IT'S VERY DIFFICULT FOR ME TO GLEAN ANY MEANING FROM THOSE  
21 CASES.

22 WHAT I KNOW IS THIS CASE, BECAUSE IT WAS TRIED IN  
23 FRONT OF ME. WHAT I FOCUSED ON, MS. BETANCOURT, IN THIS CASE  
24 ARE TWO THINGS THAT CONCERN ME VERY MUCH ABOUT THIS CASE ASIDE  
25 FROM THE ENORMOUS LOSS. ONE IS THE SPECTER OR THAT THERE IS

1 MONEY OUT THERE AND MR. CAO KNOWS WHERE IT IS, AND HE IS NOT  
2 FORTHCOMING ABOUT THAT. THAT CONTINUES TO TROUBLE ME NOW.

3 YOU JUST DON'T LOSE THAT AMOUNT OF MONEY. YOU DON'T  
4 LOSE TRACK OF IT. VERY SOPHISTICATED PEOPLE HAVE LOOKED AT  
5 FINANCIAL STATEMENTS, LOOKED AT FINANCIAL RECORDS, AND THEY  
6 TRIED THEIR LEVEL BEST TO FIND OUT WHERE THE MONEY WENT, AND  
7 THEY CAN'T DETERMINE IT. IT'S NOT DETERMINABLE ON THE BASIS  
8 OF THE RECORDS.

9 SO FOR MR. CAO TO LIGHTLY SAY, "WELL, IT ALL WENT  
10 THROUGH THOSE ACCOUNTS, THAT'S ALL YOU HAVE TO DO," THAT'S NOT  
11 TRUE. LIKE I SAID, PEOPLE HAVE SCRUTINIZED THOSE ACCOUNTS.  
12 PEOPLE THAT ARE DOGGED ABOUT TRYING TO GET THIS MONEY BACK,  
13 AND THE ACCOUNTS DON'T FORETELL WHERE AT MONEY IS. THEY DON'T  
14 DISCLOSE WHERE THAT MONEY IS, MR. CAO.

15 WHAT'S TROUBLING TO ME IN GENERAL CIRCUMSTANCES IN  
16 THIS CASE, I THINK YOU KNOW. AND I DON'T -- THIS BIZARRE  
17 CRYPTIC "I AM GOING TO DO THIS ON MY OWN. I'LL GET TO THESE  
18 PEOPLE, AND I DON'T TRUST THE GOVERNMENT TO DO IT." I DON'T  
19 UNDERSTAND THAT.

20 I DON'T UNDERSTAND WHY YOU WOULD BE AT ALL SKEPTICAL  
21 ABOUT THE GOVERNMENT'S DESIRE TO GIVE THE MONEY BACK TO THE  
22 VICTIMS IN THIS CASE. IT IS ALMOST LIKE YOU FEEL AGGRIEVED,  
23 AND I DON'T GET THAT. YOU ARE THE GUY THAT HAS CHEATED ALL  
24 THESE PEOPLE OUT OF A LOT OF MONEY THERE AND YOU POINT THE  
25 FINGER AND SAY, "I DON'T TRUST THE GOVERNMENT ON THIS."

1           THEY REACTED AND RESPONDED TO WHAT YOU DID. I JUST  
2           DON'T UNDERSTAND THE EXPLANATION THAT YOU GIVE TODAY THAT "I  
3           AM NOT GOING TO TURN OVER THE INFORMATION TO THE UNITED  
4           STATES. LET THEM PURSUE THESE LEADS AND GET THE MONEY BACK  
5           BECAUSE I DON'T TRUST THEM." IT IS NAIVE. YOU ARE GOING TO  
6           BE IN PRISON. YOU ARE NOT GOING TO HAVE ANY MEANS TO RUN THIS  
7           DOWN.

8           SO I HOPE YOU RETHINK THAT. YOU HEARD WHAT THE  
9           PROSECUTOR HAS SAID TODAY. IF THE MONEY COMES BACK AND THEY  
10          CAN TRACE THE MONEY TO WHAT WAS STOLEN HERE, THEN THEY'LL COME  
11          BACK IN AND ASK ME TO REDUCE THE SENTENCE.

12          I AM TELLING YOU RIGHT NOW I WILL REDUCE THE  
13          SENTENCE IF THERE IS A SUBSTANTIAL AMOUNT OF MONEY THAT COMES  
14          BACK TO THESE PEOPLE.

15          BUT THE CIRCUMSTANCE HERE ARE VERY, VERY SERIOUS AND  
16          THEY ARE TRAGIC. I DON'T KNOW IF ANY OF THE INVESTORS ARE  
17          HERE TODAY WATCHING. I GOT THEIR ACCOUNTS IN THE PROBATION  
18          REPORT. WHAT YOU DID HAD REAL LIFE CONSEQUENCES. JUST BEYOND  
19          THE STAGGERING AMOUNT THE MONEY, REAL LIFE CONSEQUENCES.  
20          PEOPLE LOSING THEIR HOUSES, GOING INTO BANKRUPTCY. PEOPLE WHO  
21          CAN NO LONGER PAY TO SEND THEIR KIDS TO COLLEGE. THOSE THINGS  
22          WILL LIVE ON AND ON, MR. CAO, LONG PAST TODAY AND THE TIME IT  
23          TOOK FOR YOU TO STEAL THAT MONEY FROM THEM. THEY ARE  
24          LIFE-CHANGING DECISIONS FOR SOME OF THESE PEOPLE. YOU  
25          AFFECTED ALL OF THAT WITH YOUR GREED AND HUBRIS, AND THAT

1 MAKES THIS CASE VERY SERIOUS FOR ME.

2 THE GOVERNMENT POINTS OUT THAT THIS KIND OF CASE  
3 WHERE IF THERE IS REALLY A GENERAL DETERRENT THAT STUDIES TEND  
4 TO SHOW THAT IT MAKES A DIFFERENCE IN THIS CASE. PEOPLE THAT  
5 ARE SOPHISTICATED LIKE MR. CAO GET THE MESSAGE THAT IF THE  
6 GOVERNMENT COMES AFTER YOU, THERE IS GOING TO BE HUGE  
7 CONSEQUENCES.

8 I THINK ALL THE PUBLICITY THAT HAS GONE TO THESE  
9 HIGH PROFILE CASES SUGGEST TO PEOPLE THAT IT IS A DIFFERENT  
10 DAY HERE IN THE UNITED STATES. THESE CASES ARE BEING TREATED  
11 MUCH MORE SERIOUSLY. IT DIDN'T USED TO BE LIKE THIS,  
12 MS. BETANCOURT. YOU MAY KNOW THAT. I KNOW THAT FOR SURE.

13 THIRTY YEARS THAT I HAVE BEEN AT THIS, FOR OVER 30  
14 YEARS, THE PENALTIES FOR WHITE-COLLAR OFFENSES HAVE RATCHETED  
15 UP GREATLY. MR. PACKER TOUCHED ON THAT IN THE MEMO ABOUT THE  
16 INCREMENTAL INCREASES IN GUIDELINES TO WHITE-COLLAR OFFENSES.  
17 THEY ARE TREATED VERY DIFFERENTLY NOW. WHO WOULD HAVE THOUGHT  
18 20 YEARS AGO, 25 YEARS AGO THERE WAS NO BLOOD, GUTS, OR SEMEN  
19 THAT WE ARE GOING TO BE TALKING ABOUT 40 YEARS IN CUSTODY.  
20 BUT WE ARE. THAT'S THE AGREED-UPON GUIDELINE LEVEL, 360 TO  
21 LIFE, AND THEY ARE WITHIN THAT RECOMMENDATION.

22 SO THIS IS VERY SERIOUS. AND I THINK IT DOES TAKE  
23 INTO ACCOUNT THE EFFECT OF WHAT YOU DID IN THIS CASE.

24 MR. CAO, I DON'T KNOW IF YOU HAVE EVER BEEN THE  
25 VICTIM OF A FRAUD. YOU SAY YOU HAVE. YOU SAY SOME OF THESE

1 PEOPLE CHEATED YOU, AND YOU WERE ANGRY ABOUT THAT AND THAT  
2 EXPLAINS THE CONVICTION. IT'S A VERY HALLOW FEELING. IT IS  
3 NOT ON A LOW LEVEL. IT'S A VERY HALLOW FEELING WHEN YOU  
4 REALIZE YOU HAVE BEEN DUPED AND THERE IS NOTHING YOU CAN DO  
5 ABOUT IT.

6 THE MONEY IS GONE. YOU THINK "HOW CAN I BE SO  
7 STUPID, AND WHAT AM I GOING TO DO NOW?" I AM SURE THAT THESE  
8 PEOPLE THAT YOU STOLE FROM HAVE ALL GONE THROUGH THAT PROCESS,  
9 BEEN MISERABLE FOR THEM.

10 SO I HAVE THAT IN MIND. AND I HAVE A HOPE IN MIND  
11 MAYBE THE SENTENCE WILL BE A MESSAGE TO OTHER PEOPLE THAT  
12 THESE THINGS ARE TAKEN VERY SERIOUSLY IN THESE TIMES. YOU  
13 DON'T CHEAT PEOPLE OUT OF LIFE SAVINGS AS YOU DID IN THIS  
14 CASE, MR. CAO.

15 NOW, ULTIMATELY IT COMES DOWN TO THIS: HOW MUCH IS  
16 ENOUGH; HOW MUCH IS TOO MUCH.

17 WITH ALL RESPECT -- AND I DO RESPECT THE  
18 RECOMMENDATION OF THE UNITED STATES IN THIS CASE. I RESPECT  
19 BOTH MR. ORABONA, MR. OWENS. THEY ARE BOTH EXPERIENCED  
20 PROSECUTORS, EXPERIENCED FRAUD PROSECUTORS.

21 AT SOME POINT THERE IS SOME PROPORTIONALITY, AND I  
22 JUST THINK THAT A 480-MONTH SENTENCE, 40 YEARS FOR A GUY 30  
23 YEARS OLD, EVEN GIVEN WHAT HAPPENED HERE, IS TOO MUCH. I  
24 THINK IT'S TOO MUCH.

25 I AM NOT AT ALL INSENSITIVE TO THE VICTIMS OF THIS

1 CASE. I THINK EVERYTHING I HAVE HAS SAID SO FAR HAS INDICATED  
2 THAT. BUT HERE IS WHAT THE REALITY IS. FOR THOSE PEOPLE THE  
3 SUN IS GOING TO RISE TOMORROW. IT IS. THEY ARE GOING TO  
4 EITHER HAVE TO ADJUST. THEY ARE GOING TO HAVE TO GO ON.  
5 THERE IS GOING TO BE SOME SACRIFICES OCCASIONED BY THIS THING,  
6 BUT THE SUN RISES TOMORROW. AND THAT'S DIFFERENT FROM MANY  
7 OTHER CASES WHERE WE ARE TALKING ABOUT A 40-YEAR SENTENCE.  
8 THE SUN DOESN'T RISE TOMORROW FOR SOME PEOPLE IN THAT  
9 CIRCUMSTANCE. I CAN SEE IT.

10 THIS IS DIFFERENT. I THINK THIS IS DIFFERENT IN  
11 KIND AND HARD TO COMPARE EXCEPT IN A STRAIGHT PROPORTIONALITY  
12 SENSE. I THINK 40 YEARS IS TOO MUCH FOR A 30-YEAR-OLD GUY,  
13 EVEN SOMEBODY WHO HAS COMPOUNDED THE ORIGINAL ERRORS BY A  
14 SERIES OF ILL-ADVISED ACTIONS.

15 BUT I AM ALSO MINDFUL OF THIS, MS. BETANCOURT. I  
16 WANT TO LEAVE SOME INCENTIVE FOR MR. CAO TO DO THE RIGHT  
17 THING, AND I THINK THE MONEY IS OUT THERE. I DON'T KNOW WHERE  
18 IT IS, BUT I THINK HE KNOWS. AND I AM EVEN MORE SUSPICIOUS  
19 THAN WHEN WE BEGAN THIS HEARING BASED ON WHAT HE SAID, BASED  
20 ON HIS CLAIM TO FINGER OTHER PEOPLE BY SAYING THEY HAVE IT.  
21 "I AM GOING TO RELY ON SELF-HELP TO GET IT BACK," AND SO ON  
22 AND SO FORTH.

23 HOWEVER HE GETS IT BACK, IF HE GETS IT BACK AND IT'S  
24 THE MONEY THAT HE TOOK, THEN HE CAN EXPECT A REDUCTION OF  
25 SENTENCE. I WANT TO GIVE HIM THAT INCENTIVE. THE GOVERNMENT

1 HAS SAID IF HE COMES FORWARD AND WE'LL GET THE MONEY BACK,  
2 WE'LL BRING A RULE 35 MOTION.

3 MAYBE THAT DOESN'T RESONATE WITH MR. CAO TODAY, BUT  
4 MAYBE SIX MONTHS FROM NOW WHEN HE IS ASSIGNED TO SOMEPLACE  
5 THAT IS NOT A PLEASANT PLACE WHERE EVERY DECISION IS BEING  
6 MADE FOR HIM, WHEN HE GETS UP, WHAT HE EATS FOR LUNCH, WHO HE  
7 ASSOCIATES WITH, MAYBE THEN HE WILL SAY, "YOU KNOW, WAIT, THIS  
8 ISN'T WHAT I HAD IN MIND FOR THE REST OF MY LIFE."

9 SO I WANT TO CREATED SOME INCENTIVE FOR HIM TO DO  
10 THE RIGHT THING. I THINK THERE IS A SUBSTANTIAL AMOUNT OF  
11 MONEY OUT THERE, MR. CAO, STILL.

12 MS. BETANCOURT: I APOLOGIZE, YOUR HONOR, BUT IT'S  
13 NOT 12 MILLION THAT'S OUT THERE.

14 THE COURT: I AGREE WITH YOU. THAT'S THE  
15 CLARIFICATION. IT IS STILL A LARGE AMOUNT OF MONEY.

16 MS. BETANCOURT: ABSOLUTELY.

17 THE COURT: AND AS I LOOK AT THIS RESTITUTION ORDER,  
18 IT WOULD MAKE A LOT OF THESE PEOPLE WHOLE, BRING IN HALF OF  
19 THEIR LOSS IN THIS CASE WHICH IS A LOT BETTER THAN WHERE THEY  
20 STAND NOW.

21 ANYWAY, THAT IS WITHIN HIS ABILITY TO DO THAT. I  
22 DO. I BELIEVE THAT TODAY. THE ABSENCE OF ANY CREDIBLE  
23 EXPLANATION OF WHERE THE MONEY WENT AND THE CRYPTIC STATEMENTS  
24 THAT HE MAKES TODAY SUGGEST TO ME THAT IT'S OUT AND HE KNOWS  
25 WHERE IT IS. I DON'T GET THIS THING "I DON'T TRUST THE

1 GOVERNMENT TO GO AFTER IT." THAT'S HIS ONLY RECOURSE AT THIS  
2 POINT.

3 I AM TELLING YOU, MR. CAO, YOU CHANGE YOUR MIND, YOU  
4 COOPERATE, THE MONEY COMES BACK, AND I WILL REDUCE THE  
5 SENTENCE.

6 THE COURT FINDS AFTER CONSIDERATION OF ALL OF THE  
7 FACTORS -- AND I WANT TO EMPHASIZE AGAIN. I LOOKED AT THIS  
8 CASE VERY, VERY CAREFULLY. I SPENT A LOT OF TIME THINKING  
9 ABOUT THIS.

10 THE APPROPRIATE SENTENCE IS 360 MONTHS. I IMPOSE  
11 360 MONTHS. THAT'S THE LOW END OF THE APPLICABLE GUIDELINES.  
12 THAT IS SUBJECT TO REDUCTION IN THE EVENT A SUBSTANTIAL PART  
13 OF THIS MONEY COMES BACK. I EMPHASIZE THAT ONE LAST TIME.

14 IF MR. CAO COMPLETES HIS SENTENCE, HE WILL BE ON  
15 SUPERVISED RELEASE FOR A PERIOD OF THREE YEARS. THE TERMS OF  
16 SUPERVISED RELEASE ARE AS FOLLOWS:

17 YOU ARE TO SUBMIT TO A SEARCH BY THE PROBATION  
18 OFFICER OF YOUR RESIDENCE, YOUR OFFICE, YOUR PERSON, YOUR  
19 PERSONAL EFFECTS.

20 YOU ARE TO PROVIDE COMPLETE DISCLOSURE OF YOUR  
21 PERSONAL, BUSINESS, FINANCIAL RECORDS; NOT TO OPEN CHECKING  
22 ACCOUNTS OR INCUR CREDIT CHARGES WITHOUT APPROVAL OF THE  
23 PROBATION OFFICER.

24 YOU ARE NOT TO ENGAGE IN EMPLOYMENT OR PROFESSION  
25 INVOLVING FIDUCIARY RESPONSIBILITIES.



1           YOU ARE NOT SO SOLICIT FUNDS FROM INVESTORS OR  
2   FINANCIAL INSTITUTIONS; TELL THE PROBATION OFFICER ABOUT ANY  
3   CAR THAT YOU OWN OR DRIVE; NOTIFY THE COLLECTIONS UNIT OF THE  
4   U.S. ATTORNEY'S OFFICE AND THE U.S. PROBATION OFFICE OF ANY  
5   INTEREST YOU ACQUIRE IN PROPERTY DIRECTLY OR INDIRECTLY,  
6   INCLUDING ANY INTEREST UNDER ANY NAME, ANY ENTITY, ANY TRUST,  
7   ANY PARTNERSHIP, CORPORATION UNTIL THE FINAL RECITATION ORDER  
8   IN THIS CASE IS PAID IN FULL.

9           YOU ARE LIKEWISE TO NOTIFY THE COLLECTIONS OFFICE OF  
10   THE U.S. ATTORNEY'S OFFICE AS WELL AS THE PROBATION OFFICER  
11   BEFORE YOU MAKE ANY TRANSFERS OF ANY INTEREST IN PROPERTY THAT  
12   YOU OWN DIRECTLY OR YOU CONTROL INDIRECTLY.

13          YOU ARE TO COOPERATE WITH ANY ADMINISTRATIVE  
14   FINDINGS OF THE INTERNAL REVENUE SERVICE, FILE ANY DELINQUENT  
15   INCOME TAXES AS REQUESTED, FILE FUTURE INCOME TAXES AS  
16   REQUIRED BY LAW.

17          THE COURT DECLINES TO IMPOSE A FINE IN THIS CASE. I  
18   DON'T THINK MR. CAO HAS THE ABILITY TO PAY A FINE. I RATHER  
19   IF HE DOES COME INTO MONEY THAT HE PAYS RESTITUTION.

20          THE COURT ORDERS THE PAYMENT OF RESTITUTION AT \$25  
21   PER QUARTER WHILE HE IS IN CUSTODY. \$250 PER MONTH BEGINNING  
22   120 DAYS AFTER HE IS RELEASED FROM CUSTODY.

23          THE PENALTY ASSESSMENT ARE \$400, REPRESENTING \$100  
24   PER COUNT OF CONVICTION.

25          NOW, ON THE AMOUNT OF RESTITUTION, I DON'T THINK

1 THERE IS DISAGREEMENT ABOUT THAT. IT HASN'T BEEN CONTESTED?  
2 IS THAT CORRECT, MS. BETANCOURT?

3 MS. BETANCOURT: THAT'S CORRECT, YOUR HONOR.

4 THE COURT: THE COURT ACCEPTS THE GOVERNMENT'S  
5 RESTITUTION CALCULATIONS THAT ARE SET FORTH IN THE PROPOSED  
6 JUDGMENT. THE RESTITUTION, I FIND, IS TO BE PAID TO THE  
7 VICTIMS NAMED IN THAT PROPOSED JUDGMENT.

8 THE TOTAL AMOUNT IS \$12,408,172.01. THAT'S TO BE  
9 PAYABLE TO THE CLERK OF THE U.S. DISTRICT COURT. I SET THE  
10 PAYMENT SCHEDULE THAT CAN BE MODIFIED DEPENDING ON MR. CAO'S  
11 ABILITY IN THE DISCRETION OF THE PROBATION OFFICER.

12 THE RESTITUTION AMOUNT, I SUPPOSE, CAN BE REDUCED TO  
13 FINAL JUDGMENT. THAT WILL LAST LONGER THAN THE SUPERVISED  
14 RELEASE PERIOD.

15 MR. CAO, YOU HAVE THE RIGHT TO APPEAL. YOUR NOTICE  
16 OF APPEAL HAS TO BE FILED WITHIN 10 DAYS; HAS TO BE FILED  
17 HERE. DOESN'T COST YOU ANYTHING. MS. BETANCOURT AND  
18 MR. PACKER CAN ADVISE YOU ON THAT. IF YOU NEED ASSISTANCE,  
19 THE CLERK OF THE COURT CAN ASSIST YOU WITH THAT.

20 DO YOU UNDERSTAND THAT YOU HAVE THE RIGHT TO APPEAL  
21 BOTH THE SENTENCE AND THE JUDGMENT IN THIS CASE?

22 THE DEFENDANT: NO.

23 MS. BETANCOURT: YOUR HONOR, WE WOULD BE FILING A  
24 NOTICE ON HIS BEHALF AFTER WE DISCUSS IT.

25 THE COURT: I AM INFORMING YOU THAT YOU HAVE THAT

1 RIGHT AND YOUR LAWYERS CAN ASSIST YOU WITH THAT.

2 I HOPE YOU TURN AROUND IN YOUR THINKING, MR. CAO. I  
3 REALLY DO. IT'S A LONG TIME. I STRUGGLED WITH THIS. IT'S NO  
4 FUN AT ALL, I HAVE NO JOY IN SENDING A 30-YEAR-OLD GUY TO JAIL  
5 FOR THAT LONG, AND I AM MINDFUL WHAT MS. BETANCOURT SAYS. YOU  
6 HAVE A YOUNG CHILD. I GIVE YOU CREDIT TO TRY TO SUPPORT YOUR  
7 CHILD AND TRY TO SUPPORT THE 10-YEAR-OLD YOUR GIRLFRIEND HAS.  
8 THOSE THINGS ARE CREDIBLE, AND I HAVE TAKEN THOSE INTO  
9 ACCOUNT.

10 IT'S A LONG TIME TO BE IN JAIL. YOU KNOW WHERE THAT  
11 MONEY IS. I ENCOURAGE YOU TO COME FORWARD WITH THAT THROUGH  
12 YOUR LAWYERS AND MAKE A PITCH TO THE U.S. ATTORNEY. IF THEY  
13 COME BACK AND ASK ME TO REDUCE THE SENTENCE BASED ON  
14 SUBSTANTIAL RETURN OF WHAT'S LEFT, THEN I WILL DO IT. I AM  
15 TELLING YOU THAT RIGHT NOW.

16 MS. BETANCOURT: YOUR HONOR, JUST FOR THE RECORD, I  
17 WOULD OBJECT ON PROCEDURAL AND SUBSTANTIVE GROUNDS.

18 THE COURT: THE OBJECTION IS NOTED.

19 I HAVE A PROPOSED JUDGMENT. YOU WERE GOING TO  
20 SUBMIT THE FINAL RESTITUTION JUDGMENT TO ME, MR. ORABONA?

21 MR. ORABONA: YES, WE WILL DO THAT, YOUR HONOR.

22 THE COURT: THAT'S ALL.

23 THE DEFENDANT: FOR THE RECORD, I HAVE ALREADY  
24 DECLINED ALL THE OFFERS, YOUR HONOR.

25 THE COURT: I KNOW. I HOPE YOU CHANGE YOUR MIND,

MR. CAO. I HOPE YOU CHANGE YOUR MIND.

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I HEREBY CERTIFY THAT THE TESTIMONY  
ADDUCED IN THE FOREGOING MATTER IS  
A TRUE RECORD OF SAID PROCEEDINGS.

S/EVA OEMICK 6-15-2011

EVA OEMICK  
OFFICIAL COURT REPORTER

DATE